SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1964

No. 50

UNITED STATES, PETITIONER,

VS.

DANIEL ANDREW SEEGER

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

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IN THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Docket No. 28346

UNITED STATES OF AMERICA, Appellee,

against

DANIEL ANDREW SEEGER, Appellant.

On Appeal from the United States District Court for the Southern District of New York

Appellant's Appendix—Filed October 21, 1963

[File Endorsement Omitted.]

[fol. 4] IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

No. 62 CR 003

UNITED STATES OF AMERICA,

v.

DANIEL ANDREW SEEGER

JUDGMENT APPEALED FROM—May 28, 1963

On this 28th day of May, 1963 came the attorney for the government and the defendant appeared in person and by counsel

IT IS ADJUDGED that the defendant has been convicted upon his plea of not guilty and a finding of guilty by the Court, defendant having waived trial by jury of the offense of a registrant under the Universal Military Training and Service Act, unlawfully and knowingly failing, neglecting and refusing to perform a duty required of him under and in execution of said Act and the rules and regulations and directives made pursuant thereto, to wit, to submit to induction at the time and place fixed in an Order to Report for Induction mailed to him by his Selective Service System Local Board (Title 50, App., Section 462, U. S. Code) as charged and the Court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

[fol. 5] It is adjudged that the defendant is guilty as charged and convicted.

It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of one (1) year and one (1) day.

Defendant released on his own recognizance pending appeal.

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal

or other qualified officer and that the copy serve as the commitment of the defendant.

Richard H. Levet, United States District Judge,
James E. Valeche, Clerk.

[fols. 6-7] IN THE UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

DANIEL ANDREW SEEGER, Defendant.

INDICTMENT—Filed November 13, 1962

The Grand Jury charges:

On or about the 20th day of October, 1960, in the Southern District of New York, DANIEL ANDREW SEEGER, the defendant, being a registrant under the Universal Military Training and Service Act, Title 50 Appendix, United States Code, Section 451 et. seq., unlawfully and knowingly did fail, neglect and refuse to perform a duty required of him under and in execution of said Act and the rules and regulations and directives made pursuant thereto, to wit, to submit to induction at the time and place fixed in an Order to Report for Induction mailed him by his Selective Service System Local Board.

(Title 50, App., United States Code, Section 462; 32 Code of Federal Regulations, Section 1632.14)

——, ——, Foreman

——, ——, Vincent L. Broderick, United States Attorney.

[fol. 8] GOVERNMENT'S EXHIBIT 30(a)

Recommendation of Department of Justice and Resumé of F.B.I. Reports

UNITED STATES DEPARTMENT OF JUSTICE
Washington, D.C.

Oct 22 1959.

Chairman, Appeal Board, Eastern
District of New York, Panel #2,
Selective Service System,
205 East 42d. Street,
New York 17, New York.

Dear Sir:

Re: Daniel Andrew Seeger, Conscientious Objector

As required by section 6(j) of the Universal Military Training and Service Act, as amended, an inquiry was made by the Department of Justice in the above-mentioned case and an opportunity to be heard on his claim for exemption as a conscientious objector was given to the registrant by Mr. John Marshall Lockwood, a Hearing Officer for the Department of Justice.

The information obtained from the inquiry and considered by the Department of Justice in arriving at its recommendation is contained in the Resumé of the Inquiry attached hereto and made a part hereof.

The registrant was born September 3, 1935. His parents are members of the Roman Catholic Church and the registrant was brought up in that faith. He is not now affiliated with or a member in any particular religious denomination. The registrant graduated from the Bayside [fol. 9] High School, Bayside, Queens, New York, on June 25, 1963. He ranked 35 in a class of 594. He was active in extra-curricular activities in that school, a member of an honorary society, and received the Pi Mu Epsilon award in mathematics. He attended the Cooper Union for the Advancement of Science and Arts from September 1953 to June 1954. He entered Queens College, Flushing, New York, in September 1954 where he was still enrolled at

the time of the inquiry on April 7, 1959. In his SSS Form 100 received by the local board October 21, 1953 the registrant expressed the opinion that his classification should be Class II-S. He did not execute Series XIV, conscientious objection to war. At various times the registrant received classification in Classes 1-A and II-S. He was last classified in Class 1-A on October 21, 1958 from which classification he appealed.

Attached hereto and made a part hereof are Exhibits A through D which include correspondence between the registrant and the Department of Justice Hearing Officer as well as Items submitted by the registrant to the Hearing Officer.

The registrant appeared before the Hearing Officer in Brooklyn, New York, on September 10, 1959, accompanied by two witnesses, a professor of the English Department, Queens College, Long Island, New York, and a friend who was also a classmate, of the registrant. The Hearing Officer reported that registrant answered questions in a willing and straight-forward manner and he stated that registrant is obviously a very intelligent young man, as evidenced by his scholastic record. The registrant told [fol. 10] the Hearing Officer that he considered himself to be a 100% pacifist and that he had held pacifist views for as long as he could remember. The registrant evidenced surprise and annoyance that the fact that he was a pacifist was not well known as indicated by the Resumé of the Inquiry. He told the Hearing Officer that he had discussed his views with many people and that, although he was not in the habit of volunteering his views, he was neither ashamed of them nor reluctant to discuss them with anyone at any time. The registrant indicated that he was not affiliated with any of the sects to which many of the conscientious objectors belong but had strong sympathetic support for the Quaker movement. He also admitted sympathy with some of the views of Jehovah's Witnesses but criticized their dogmatic approach to the problem. He expressed the feeling that this is a personal problem and the individual himself must make up his own mind as to how he feels toward his fellow man. The registrant testified that he had been convinced after a thorough research and reading into history, particularly various religious

trends, theoriet, and teachings, that peace throughout the world could only be accomplished by the laying down of arms by all.

The Hearing Officer queried the registrant about his willingness to serve with medical units of the armed services where he would not be required to carry or bear arms. The registrant expressed the feeling that this would only be "patching them up to put them back at firing again" and he stated that he would refuse to so serve. He told the Hearing Officer that he would [fol. 11] have no objection to an assignment to civilian work contributing to the maintenance of the national health, safety, or interest unless such work in some way involved the manufacture, preparation, or sale of armaments or other implements of war. If the assignment required such activities he would refuse to perform such service.

The registrant's friend who appeared as a witness at the hearing and who has served with the armed forces advised the Hearing Officer that he did not agree with registrant's views but believed them completely sincere and deeply engrained in Seeger's mind and personal approach to life. He stated that he and registrant had been best friends for three or four years at Queens College and had had numerous discussions on the subject of pacifism. He said there was absolutely no doubt in his mind that Seeger was a sincere conscientious objector. The English Professor who appeared as a witness for the registrant at the hearing told the Hearing Officer that he had had many discussions with the registrant about the latter's views and that, although he did not agree with them, he was convinced that registrant's beliefs were completely sincere. The Hearing Officer considered the Professor's statements reliable. The Hearing Officer reported that the registrant impressed him as a truthful, decent young citizen who conscientiously objects to joining in any manner any activity which would bear on military affairs. He stated that he was inclined to believe that the registrant, because of his extreme intelligence and lucidity, might create a problem if taken into the military service in that he would not be beyond preaching non-violent sub- [fol. 12] version if it would enhance his pacifist purpose. The Hearing Officer stated that these remarks are not

intended to imply disloyalty to the United States on the part of the registrant, but merely a feeling that this young man might let his beliefs cloud over his loyalties.

The Hearing Officer concluded that the registrant is completely sincere in making his claim and that the character of registrant's beliefs, as adduced at the hearing and from the various documents on file, are honest. He found that the registrant is opposed to participation in war in any form; that his conscientious objections are based upon his individual training and belief, both of which include research in religious and cultural fields; that the registrant is sincere in his claim which is made in good faith. He recommended that the appeal of the registrant based upon grounds of conscientious objection be sustained.

In his SSS Form 150 received by the local board on July 29, 1959 the registrant struck out the words "training and" in Paragraph (B) of Series I and placed the word religious in indirect quotation marks. In answer to Question 1, Series II of Form 150 the registrant did not check the yes or no squares but added a third square and placed a check mark therein followed by the words "Please see attached sheet". In the attached sheet the registrant's answer to the question stated, among other things:

> "Of course, the existance of God cannot be proven or disproven, and the essence of his nature cannot be determined. * * * The cosmic order does, perhaps, suggest a creative intelligence. But considering [fol. 13] the natural world outside of man, with its ceaseless struggle for survival and its indiscriminate distribution of catac*ylsm*ic natural phenomena, one may doubt that this intelligence is informed with a moral purpose. Rather it would appear that in human history the principle of righteousness has emerged very gradually from man's own painful efforts, uncertain and unblessed."

The registrant's answer to Question 2 of Series II is an interesting philosophical dissertation on the nature of his belief which is the basis of his claim made in Series I but it is not responsive to the last part of the question as

to whether his belief in a Supreme Being involves duties which to him are superior to those arising from any human relation. In answer to Question 3 as to when, how, and from whom or what source he received the training and acquired the belief which is the basis of his claim made in Series II, the registrant stated "Readings over the past ten months from:" following which he lists approximately a dozen authors and the names of publications which he has read. In answer to Question 4, the registrant stated:

> "I rely on no particular person for religious guidance. I resolve spiritual and ethical problems by reading relavent essays or books, by discussion and debate with colleagues, and ultimately, by following the dictates of my conscience."

In answer to Question 5, Series II, "Under what circumstances, if any, do you believe in the use of force" the registrant quotes Tolstoi and Bertrand Russell and states that he tends to favor Russell's broader outlook. The [fol. 14] registrant did not answer Question 6, Series II, which asked him to describe the actions and behavior in his life which in his opinion most conspicuously demonstrate the consistency and depth of his "religious convictions".

As to character, conduct, and moral behavior the Resumé of the Inquiry is favorable to the registrant. One interviewee advised that registrant's conscientious-objector claim was probably based upon ethical and philosophical grounds. A young lady who has known the registrant for almost a year and has been keeping company with him regards him very highly and considers him to be an extremely gentle person. She advised that registrant is a very philosophical person and stated that he bases his beliefs on his own philosophy. She also said that the registrant is an agnostic. A friend and former co-worker of the registrant advised that the registrant had told him that he, the registrant, came to his convictions as a conscientious objector based upon his reading and his own philosophy.

A letter in the registrant's file addressed to the Appeal Board and dated October 21, 1958 signed by a Harry

Herschman, which states that "the basis for the appeal is that the registrant believes himself to be a conscientious objector, by virtue of his aversion to war in any aspect, including civilian aid or medical assistance to our armed forces." The registrant first expressed his conscientious-objector views to his local board in a letter dated July 12, 1957 wherein he stated among other things:

> "My decision arises from what I believe to be considerations of validity from the standpoint of the wel- [fol. 15] fare of humanity and the preservation of the democratic values which we in the United States are struggling to maintain. I have concluded that war from the practical standpoint is futile and self-defeating, and that from the more important moral standpoint, it is unethical."

The requirement for exemption as a conscientious objector under section 6(j) of the Universal Military Training and Service Act, 50 U.S.C. App. 456(j), is that the claim be based on a person's "religious training and belief." The section defines religious training and belief as an individual's "belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code." Based upon the facts contained herein the Department of Justice concludes that the registrant has failed to make a claim within the meaning of section 6(j) of the Act, since his objections are not based upon religious training and belief in relation to a Supreme Being, as defined in said Act. See *U. S.* v. *Bendik*, 220 F. 2d 249 (2d. Cir. 1955), *U. S.* v. *DeLime*, 223 F. 2d 96 (3d. Cir. 1955), *Davidson* v. *U. S.*, 218 F. 2d 609 (9th Cir. 1954): Cert. granted, 349 U. S. 918 (1955); Court of Appeals judgment vacated and cause remanded; conviction affirmed 225 F. 2d 836 (9th Cir. 1955); Cert. den. 350 U. S. 887 (1955), *Clark* v. *U. S.*, 236 F. 2d 13 (9th Cir. 1956).

With due regard to the determination of the Hearing Officer the Department of Justice finds that the registrant's claim is not sustained and it recommends that it [fol. 16] be not sustained by your Board.

The Selective Service Cover Sheet in the above case is returned herewith.

Sincerely, T. Oscar Smith, Chief, Conscientious-Objector Section

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GOVERMENT'S EXHIBIT 30(b)

Resumé of the Inquiry

Re: Daniel Andrew Seeger, Conscientious Objector

Registrant's date of birth was verified as September 3, 1935. Records of the Bayside High School, Bayside, Queens, New York, reflect that registrant attended that school from September 1949 until he graduated on June 25, 1953. He ranked 35 in a class of 594. He was a member of the Newman Club, the school choir, and the Senior Arista, an honor society. He was an excellent student in Mathematics and Science and received the Pi Mu Epsilon award for Mathematics. No derogatory information was contained in the school records concerning the registrant. He came to the school from St. Kevin's Grammar School, Flushing.

One teacher who was interviewed could not recall the registrant and knew nothing of his conscientious-objector claim. Another teacher advised that the registrant was very intelligent, interested in Economics and human wel- [fol. 17] fare, never inclined to radical thinking, a very fine student, and a mature person of the highest integrity and character. This teacher knew nothing of the registrant's conscientious-objector claim but felt that he was probably sincere. Another teacher advised that the registrant was very much interested in social problems. He described the registrant as a very serious-minded and intelligent person. He stated that the registrant was a very good student and participated in class discussions of the Universal Military Training Law like all other students. He knew nothing of registrant's conscientious-objector claim and could not comment upon the sincerity of his claim.

Records of the Cooper Union for the Advancement of Science and Arts reflect that the registrant entered that

school in September 1953 and left in June 1954. One professor who was interviewed advised that he had the registrant in class but could not recall him. An official of the school described the registrant as a very nice young man but appeared to be a little uncertain as to his aim in life. He said that the registrant had a very good record from high school but the competition was very keen in Electrical Engineering and he only ranked 22 in a class of 25 in Cooper Union. The records showed no disciplinary action and reflected that all the registrant's freshman teachers indicated that he was a nice young man but mixed up in his ideas as to his course of studies and they recommended that he transfer to another school. This official knew nothing of registrant's conscientious objection.

Records of Queens College, Flushing, New York, reflect that the registrant entered that college in September 1954 [fol. 18] and was still enrolled at the time of the inquiry on April 7, 1959.

An official of the college advised that registrant is majoring in Physics. He stated that the registrant is a very intelligent person of high moral character. He was active in student affairs, such as the Roundtable, Outdoor Club, Editor in Chief of the college newspaper, and Chief Justice of the Student Court in the fall of 1957. He was elected to Who's Who in American Colleges and Universities in 1957. He was described by the official as a very good student even though he failed three Physics courses in his senior year. He had no reason to question the registrant's moral character but was unaware of his belief concerning his conscientious-objector claim. Professors of the college who were interviewed agreed that the registrant was a very intelligent person with ability. None of the professors knew anything about registrant's conscientious-objector claim. Two of them believed registrant to be sincere and others could not comment upon his sincerity. He was not known to express any deep religious convictions nor any pacifist views and he never indicated any opposition to war or military service.

Registrant has been employed at the Marine Midland Trust Company as a clerk since December 10, 1957. Fellow employees commented favorably upon the registrant's character but did not know of his conscientious-objector claim

and could not comment upon his sincerity with respect to such claim. One employee advised that he and some of the other clerks discussed military service and teased the registrant about his having to go into the military service. He [fol. 19] stated that the registrant never expressed any objections to military service. He further advised that the registrant never discussed his psychological or religious beliefs and kept his affairs to himself.

An official of the Seawanhaka Corinthian Yacht Club advised that the registrant was employed from May 8, 1956 until September 15, 1956 and again from May 29, 1957 until September 15, 1957 at the club. He stated that the registrant started as a bellhop and later became a bartender. He stayed at the club during these periods of employment. The official described the registrant as a very nice young man who was completely trustworthy, an idealist, and a very gentle person, as evidenced by both his work and deeds. He said that registrant's moral behavior was above reproach and he believed the registrant was sincere in making his conscientious-objector claim although the registrant had never expressed any religious or moral convictions in this matter.

Registrant was employed part time for several months in 1957 for Lyle Stuart, Publisher, New York City. He was recommended highly as to character and integrity. While employed by the publisher registrant became acquainted with another employee who was a conscientious objector and it was reported that they talked about conscientious objectors. It was stated that registrant's conscientious-objector claim was probably based upon ethical and philosophical grounds. He was believed to be sincere in his claim.

Registrant was employed by the Equitable Life Assurance Society in the summer of 1953 and by Lever Brothers [fol. 20] in the summer of 1954. No one at either place of employment recalled registrant.

Neighbors in Flushing, New York commented favorably upon the registrant and his family. They advised that the registrant was raised as a Catholic and has two uncles who are priests. They stated that the family was a very fine, exceptionally religious family and they knew nothing concerning the registrant's leaving home. One neighbor

advised that registrant left home about a year and a half or two years ago because of a misunderstanding. He stated that the registrant visits home on week ends. Registrant currently resides at 328 West 89th Street. Current neighbors comment favorably upon registrant's character and reputation but were unable to comment upon the sincerity of his claim.

A young lady who has known the registrant for almost a year and has been keeping company with him regards the registrant very highly and considers him to be an extremely gentle person. She stated that registrant is a very philosophical person and he bases his beliefs on his own philosophy. She advised that the registrant has recently joined the American Friends Society and that he has done work on week ends for a mental hospital. She said that the registrant is an agnostic. She believes the registrant is absolutely sincere in his conscientious-objector claim and that this is based on his own conviction.

A friend and former co-oworker of the registrant who has known him approximately two years stated that the registrant is a person of very outstanding moral behavior. He said that registrant had told him that he was a conscientious objector and that he was particularly interested in this because he is writing a novel concerning a con- [fol. 21-23] scientious objector in the same circumstances as the registrant. He stated that the registrant had told him that he, the registrant, came to his convictions as a conscientious objector based upon his reading and his own philosophy. He stated that the registrant was aware that he also was sympathetic to pacifism. He advised that the registrant had either told him or indicated to him that he, the registrant, was willing to go to jail rather than serve miliary service. He expressed the belief that the registrant is sincere in his convictions as being opposed to military service.

An acquaintance of the registrant whom he met at the Corinthian Yacht Club, Oyster Bay, New York in the summer of 1956 advised that he would consider the registrant to be of good character and reputation. He stated that the registrant did not use profanity, did not smoke, and he had never known him to use alcoholic beverages. He described the registrant as a very shy person and stated that al-

though he had never discussed military service or conscientious objection with the registrant it was no surprise to him that the registrant would make such a claim. He stated that the registrant was brought up in a Catholic home but that he recalled during the summer of 1956 the registrant seldom, if ever, attended church. Based upon his knowledge of the registrant he considers him a sincere conscientious objector.

Credit records of Greater New York and criminal records of the New York City Police Department contained no information concerning the registrant.

Prepared: June 24, 1959

[fol. 24] In the United States District Court, Southern District of New York

62 Cr. 1003

United States of America,

against

Daniel Andrew Seeger, Defendant.

Appearances:

Robert M. Morgenthau, United States Attorney, Southern District of New York, Attorney for United States of America, Ezra H. Friedman, Assistant United States Attorney, Of Counsel.

Davies, Hardy & Schenck, Attorneys for Defendant, 2 Broadway, New York, N. Y., Kenneth W. Greenawalt, Thomas T. Adams, Of Counsel.

Opinion for April 24, 1963

Levet, D. J.

On November 13, 1962, the defendant was indicted for unlawfully and knowingly failing "to submit to induction at the time and place fixed in an Order to Report for Induction mailed to him by his Selective Service System Local Board." 50 USC App. §462; 32 C.F.R. §1632.14.

[fol. 25] Defendant pleaded "not guilty" on November 20, 1962. A trial was conducted on March 26, 1963, at which time defendant waived a trial by jury. At the close of the trial decision was reserved.

It is undisputed that defendant's Selective Service File (Exs. 1-60) accurately discloses the following:

Defendant registered with Local Board 66 upon his eighteenth birthday on September 4, 1953. On October 21, 1953 he filed his Classification Questionnaire (S.S.S. Form 100) (Ex. 3). It reflected that he was unmarried and was a chemical engineering student at Cooper Union School of Engineering. He did not execute the claim for conscientious objector exemption which appears on page 7 of the Questionnaire. He stated that he thought he was entitled to deferment as a student.

The Minutes of Board Action (p. 8 of Questionnaire) reflect that he was initially classified 1-A on October 27, 1953 and that he was reclassified 2-S as a student on July 26, 1955. He remained in that classification until August 26, 1958, when he was reclassified 1-A.

On July 15, 1957 defendant wrote to the Board that he was conscientiously opposed to participation in war. He was mailed a Special Form for Conscientious Objectors (S.S.S. Form 150) (Ex. 11) which he filed with supporting documents on July 29, 1957.

On the Special Form for Conscientious Objectors the defendant executed the Series I claim for exemption for both combatant and non-combatant service which reads:

> "(B) I am, by reason of my religious training and belief, conscientiously opposed to participation in war in any form and I am further conscientiously opposed [fol. 26] to participation in non-combatant training and service in the Armed Forces. I, therefore, claim exemption from both combatant and non-combatant training and service in the Armed Forces."

The defendant placed quotation marks around the word "religious" and struck out the words "training and."

In response to the Series II question, "1. Do you believe in a Supreme Being?" the defendant checked neither the "Yes" nor the "No" box but added a third box and the

notation: "Please see attached sheet." The Board was also referred to the attached sheet for the answer to the Series II question:

> "2. Describe the nature of your belief which is the basis of your claim made in Series I above, and state whether or not your belief in a Supreme Being involves duties which to you are superior to those arising from any human relation."

In the five-page statement attached to the Special Form the defendant stated in answer to the question as to his belief in a Supreme Being:

> "Of course, the existence of God cannot be proven or disproven, and the essence of his nature cannot be determined. I prefer to admit this and leave the question open rather than answer 'yes' or 'no'. * * *"

His answer to Series II, question 2, describing the views on which his objections to service are based, does not reflect that he believes in a Supreme Being imposing obligations on him superior to those arising from any human relation.

[fol. 27] The defendant was continued in classification 2-S until August 26, 1958, when he was reclassified 1-A. On October 17, 1958, defendant was ordered to report for a pre-induction physical on October 29, 1958. On October 20, 1958, the Board received a request for a personal appearance, which was had on October 21, 1958. Following the personal appearance the Board voted to continue the 1-A classification.

The defendant prosecuted an appeal to the Appeal Board. The Appeal Board tentatively determined that he was not entitled to classification 1-O and forwarded the file to the Department of Justice for an advisory opinion.

The Federal Bureau of Investigation conducted a background investigation. Its reports were summarized in a resume (Ex. 30B) and the files assigned to a Hearing Officer. The defendant was provided with a copy of the resume prior to the hearing which was held on September 10, 1959. Two witnesses appeared on defendant's behalf. The hearing officer reported to the Department of Justice

that he found the defendant to be sincere in his objection to war and recommended that exemption be granted. The Department of Justice, however, concluded that the defendant's objections were not based upon religious training and belief as required and defined by §6(j) of the Universal Military Training and Service Act, and recommended to the Appeal Board that the exemption be denied.

The Appeal Board furnished the defendant with a copy of the Department of Justice recommendation and received a reply from him. The Appeal Board classified the defendant 1-A by unanimous vote on May 24, 1960. Upon [fol. 28] the defendant's request, the National Director of Selective Service appealed on his behalf to the Presidential Appeal Board. The Presidential Appeal Board classified the defendant 1-A by a unanimous vote on August 25, 1960.

On October 3, 1960, defendant's Local Board mailed him an Order to Report for Induction on October 20, 1960 at the Armed Forces Examination and Induction Station, 39 Whitehall Street, New York, N. Y. On October 20, 1960, the defendant reported as directed and after having been found acceptable for military service refused to submit to induction.

Counsel also stipulated (Ex. 6) that defendant "refused to submit to induction at the time and place aforesaid claiming that the order was invalid as he had wrongfully been denied exemption as a conscientious objector."

Therefore, the sole issue that remains is the validity of the denial of exemption. In this connection, defendant argues that 50 USC App. §456(j) is unconstitutional.

The Scope of Judicial Review

"There is no direct judicial review of the actions of the Appeal Boards. Questions concerning the classification of the registrant may be raised either in a petition for habeas corpus or as a defense to prosecution for failure to submit to induction into the armed forces." Witmer *v.* United States, 348 U. S. 375, 377 (1954); see also Estep *v.* United States, 327 U. S. 114 (1946).

"The range of review is the narrowest known to law."

United States *v.* Corliss, 280 F. 2d 808, 811 (2 Cir. 1960), [fol. 29] cert. denied, 364 U. S. 884; Blalock *v.* United States, 247 F. 2d 615 (4 Cir.), cert. denied, 355 U. S. 882 (1957); Campbell *v.* United States, 221 F. 2d 454 (4 Cir. 1955).

As was said in Blalock, supra, at page 619:

> "The 'clearly erroneous' rule applied in equity appeals has no place here, nor even the 'substantial evidence' rule of the Administrative Procedure Act, 5 U.S.C.A. §1009. Congress gave the courts no general authority of revision over draft board proceedings, and we have authority to reverse only if there is denial of basic procedural fairness or if the conclusion of the board is without any basis in fact. Witmer *v.* United States, 348 U. S. 375, 99 L. Ed. 428; Goff *v.* United States, 4 Cir., 135 F. 2d 610."

This court has defined its function as follows:

> "The function of the District Court in cases such as these is to examine the entire file or record relating to the registrant's claim for conscientious objector classification to determine if there is any basis in fact to support the Board's determination. 'When the record discloses any evidence of whatever nature which is incompatible with the claim of exemption we may not inquire further as to the correctness of the board's order.' United States *v.* Simmons, 7 Cir., 1954, 213 F. 2d 901, 904, reversed on other grounds Simmons *v.* United States, 348 U. S. 397, 75 S. Ct. 397, 99 L. Ed. 453. Courts cannot substitute their judgment on the weight of the evidence for that of the Board. Nor need they look for substantial evidence to support such determination." United States *v.* Corliss, 173 F. Supp. 677, 680 (S.D.N.Y. 1959), aff'd. 280 F. 2d 808 (2 Cir. 1960), cert. denied, 364 U. S. 884.

[fol. 30] The Reports of the Federal Bureau of Investigation and the Hearing Officer

Defendant contends that he was denied due process because he was not given copies of the above reports. This contention is without merit. The Appeal Board's denial of defendant's claim for exemption was based upon the recommendation of the Department of Justice (Ex. 30A), which, in turn, rested essentially on statement of nonbelief filed by defendant. This being the case, defendant has no right to either set of reports. Gonzales *v.* United States, 364 U. S. 59, 63-66 (1960). See also Nugent *v.* United States, 346 U. S. 1 (1953); United States *v.* Corliss, 280 F. 2d 808, 810 (2 Cir. 1960), cert. denied 364 U. S. 884 (1960).

Constitutionality of Title 50 USC App. §456(j)

The pertinent provisions of Title 50 USC App. §456(j) are as follows:

> "(j) Nothing contained in this title [sections 451-454 and 455-471 of this Appendix] shall be construed to require any person to be subject to combatant training and service in the armed forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. Religious training and belief in this connection means an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code. * * *"

[fol. 31] Section 5(g) of the Selective Training and Service Act of 1940 (50 USC App. § 305(g)) provided as follows:

> "Nothing contained in this Act shall be construed to require any person to be subject to combatant training and service in the land or naval forces of the United States, who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form."

In amending the 1940 Act and in enacting Section 6(j) of the 1948 Act (which is identical with § 6(j) of the 1951 Act here under discussion, Congress added the following language to the quotation above from the 1940 Act:

> "Religious training and belief in this connection means an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code."

Defendant's contentions as to the unconstitutionality of the above-mentioned clause are as follows:

1. Congress by passage of the 1948 amendment restricted a prior definition and the concept of "Religious training and belief" so as to relate it only to a belief "in a relation to a Supreme Being."

2. Congress thus created a preference and an aid in favor of conscientious objections *who have a belief in a Supreme Being* against those whose objection is related to or based upon some other type of religious training and belief or on a non-religious training and belief.

[fol. 32] 3. Congress has thus, in effect, established as an official religion a religion that is related to a belief in a Supreme Being and has placed the support of the government behind this particular religious belief, thus violating the Establishment Clause of the First Amendment, the Due Process Clause of the Fifth Amendment, and the religious test clause of Article VI, Clause 3 of the Constitution providing that "no religious test shall ever be required as a qualification to any office or public trust under the United States."

The First Amendment to the United States Constitution, in the applicable portion, states: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The Fifth Amendment provides that Congress may not deprive a person of life, liberty or property without due process of law.

There was proof by stipulation that the grounds on which defendant claimed exemption are religious and

arise from religious training and belief by reason of which defendant is conscientiously opposed to participation in war fall within the definitions of religion as set forth in the following cases, determined by the Second Circuit Court of Appeals: United States *v.* Kauten, 133 F. 2d 703 (1943); United States ex rel. Phillips *v.* Downer, 135 F. 2d 521 (1943); United States ex rel. Reel *v.* Badt, 141 F. 2d 845 (1944), cert. dismissed 328 U. S. 817. (See minutes 35, 36)

In substance, those cases decided under the 1940 Act held that a sincere, absolute abhorrence of all war as ethically wrong, proceeded from a "religious impulse" and met the test of the statute, which, in the same language [fol. 33] as the 1948 and 1951 Acts, exempted one who "by reason of religious training and belief is opposed to participation in war in any form" without further elaboration. A diametrically contrary conclusion was reached by the Ninth Circuit Court of Appeals in Berman *v.* United States, 156 F. 2d 377 (9 Cir. 1946), cert. denied, 329 U. S. 795. It was there held that Congress intended to exempt only those who based their objections on belief in a deity commanding abstinence from war on pain of supernatural sanction.

In enacting Section 6(j) of the 1948 Act (which is identical with Section 6(j) of the 1951 Act here under discussion), Congress explicitly adopted the view of the *Berman* case and added the limiting definition:

> "Religious training and belief in this connection means an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code."

See Selective Service Act of 1948 Senate Committee Report, United States Code Congressional Service, 80th Congress, 1948, 2d Session, P. 1989 at p. 2002.

However, a defendant's inability to assert a belief in a Supreme Being as a basis for the claim of exemption has been sustained as sufficient for a denial of a claim for exemption. United States *v.* Bendik, 220 F. 2d 249 (2

Cir. 1955); United States *v.* DeLime, 223 F. 2d 96 (3 Cir. 1955); Davidson *v.* United States, 225 F. 2d 836 (9 Cir. 1955); Clark *v.* United States, 236 F. 2d 13 (9 Cir. 1956), cert. denied, 352 U. S. 882.

[fol. 34] In the *Bendik* case, *supra*, Judge Smith, speaking for the Second Circuit, wrote:

> "* * * the sincerity of his conscientious scruples against service was immaterial, since admittedly they were not founded on belief in a Supreme Being, a requirement as a ground for deferment under the Act, 50 U.S.C.A. Appendix, §456(j). Berman *v.* United States, 9 Cir., 156 F. 2d 377, certiorari denied 329 U. S. 795, 67 S. Ct. 480, 91 L. Ed. 680. * * *" (p. 252)

In *Clark, supra*, the defendant raised the same constitutional questions relief upon by defendant here but the Ninth Circuit upheld denial of exemption. Certiorari was denied. See also George *v.* United States, 196 F. 2d 445 (9 Cir. 1952), cert. denied, 344 U. S. 843.

There is no violation of the religious test provision of Article VI, Clause 3. Exemption from military service can hardly be deemed an "office or public trust under the United States." Such a view is indeed specious. Clark *v.* United States, 236 F. 2d 13, 23 (9 Cir. 1956), cert. denied, 352 U. S. 882. Cf. Torcaso *v.* Watkins, 367 U. S. 488 (1961).

Likewise, Congress has not established a church or coerced religious belief, in violation of Amendment I. (Arver *v.* United States (Selective Draft Law Cases), 245 U. S. 366 (1918)). Congress has not set up a state church, nor aided any religion, nor compelled attendance or non-attendance at any church. Neither has it compelled profession or refraining from profession of any belief or disbelief, nor imposed punishment for any conduct. No financial support of government has been devoted to any [fol. 35] particular religious belief (cf. Everson *v.* Board of Education, 330 U. S. 1 (1947)) nor has any compulsive religious service been supported (cf. Engel *v.* Vitale, 370 U. S. 421 (1962)).

Congress, by Article 1, Section 8, is given power to raise

and support armies and to provide and maintain a navy. Therefore, "Congress has power to raise armies, to determine who will serve in such armies, and who shall be exempt in time of peace and in time of war. Such powers are essential to national security. See United States *v.* Macintosh, 283 U. S. 605, 51 S. Ct. 570, 75 L. Ed. 1302; United States *v.* Henderson, 7 Cir., 1950, 180 F. 2d 711, certiorari denied, 1950, 339 U. S. 963, 70 S. Ct. 997, 94 L. Ed. 1372; Richter *v.* United States, 9 Cir., 1950, 181 F. 2d 591, certiorari denied, 1950, 340 U. S. 892, 71 S. Ct. 199, 95 L. Ed. 647; Warren *v.* United States, 10 Cir., 1949, 177 F. 2d 596, certiorari denied, 1950, 338 U. S. 947, 70 S. Ct. 485, 94 L. Ed. 585. * * *" United States *v.* Bartell, 144 F. Supp. 793, 796 (S. D. N. Y. 1956). The question of exemption from military service is a part of the procedure of raising an army, which is vested in Congress and its instrumentalities. United States *v.* Hearn, 153 F. 2d 186, 188 (5 Cir. 1946), cert. dismissed, 329 U. S. 667. The war power tolerates no limitations except those found in the Constitution or in applicable principles of international law. United States *v.* Macintosh, 283 U. S. 605, 622, overruled on other grounds, Girouard *v.* United States, 328 U. S. 61 (1946).

Defendant relies upon certain decisions of the United States Supreme Court post-dating draft exemption determinations, to wit, Torcaso *v.* Watkins, 367 U. S. 488, [fol. 36] 495 (1961); Engel *v.* Vitale, 370 U. S. 421, 430, 431, 432 (1962); McGowan *v.* Maryland, 366 U. S. 420 (1961); Everson *v.* Board of Education, 330 U. S. 1, 15, 16 (1947); McCollum *v.* Board of Education, 333 U. S. 203, 210, 211 (1948).

There is nothing in these decisions to justify the position defendant takes. *Torcaso*, supra at 493 quotes from *Everson*, supra: "Neither [i.e., state or nation] can pass laws which aid one religion, aid all religions, or prefer one religion over another." I do not interpret this statement to make it improper for Congress to exempt from military service certain individuals who are defined in the statute in question. Such policy does not aid one religion or all religions or prefer one religion over another. It merely classifies those who, under certain conditions

there specified, may secure exemption from military service. Certain individuals are affected but not religious organizations. *Everson*, supra, like *McCollum*, supra, involved questions of the power of a state to utilize its tax-supported public school system in aid of religious instruction. Neither does it appear that defendant can draw any aid or comfort from McGowan *v.* Maryland, supra, which related to Sunday Closing Laws, or from Engle *v.* Vitale, supra, the public school prayer case.

Other cases such as Cantwell *v.* Connecticut, 310 U. S. 296 (1940); Washington Ethical Society *v.* District of Columbia, 249 F. 2d 127 (D. C. Cir. 1957); and Fellowship of Humanity *v.* County of Alameda, 153 C. A. 2d 673, 315 P. 2d 394, have no bearing, as I see it, upon the claim of defendant.

[fols. 37-43] Since the Congress has the right to determine who shall serve and who shall be exempt, it has the power to define the categories of those who may be thus exempted. Rase *v.* United States, 129 F. 2d 204 (6 Cir. 1942); United States *v.* Bartell, 144 F. Supp. 793, 796 (S.D.N.Y. 1956); see also Korte *v.* United States, 260 F. 2d 633 (9 Cir. 1958), cert. denied, 358 U. S. 928. Therefore, exemption from military service is a matter of legislative grace and not a matter of right. Korte *v.* United States, supra at 635.

In short, defendant's attack on the clause here involved is not new. Congress is bound to raise armies. No invidious discrimination exists. It is within the power of Congress to enable reasonable classfications to achieve the ends sought. No religion is thereby established. No freedom of worship is invaded. No compulsive acts are required. All persons of the class of defendant receive equal treatment. Congress, which has a right to refuse all exemptions, has a clear right to limit such exemptions. The statute determines those who may come within the terms of the exemptive grace, the policy which the legislative branch is empowered to select. The section involved is constitutional and there was a "basis in fact" for the Appeal Board's denial of exemption.

The defendant is, therefore, held guilty. Sentence is

set for Wednesday, May 15, 1963, at 10:00 A.M. in Room 705. The customary pre-sentence report is to be prepared.

Richard H. Levet, United States District Judge.

Dated: New York, N. Y., April 24, 1963.

[fol. 44] IN THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 206—September Term, 1963.

Argued November 15, 1963

Docket No. 28346

UNITED STATES OF AMERICA, Appellee,

v.

DANIEL ANDREW SEEGER, Defendant-Appellant.

Before: Lumbard, *Chief Judge*, and Kaufman and Hays, *Circuit Judges*.

Appeal from a judgment of conviction for refusal to submit to induction in the Armed Forces, 50 U. S. C. App. §462, after a trial before Levet, *J.*, without a jury, in the United States District Court for the Southern District of New York.

Judgment of conviction reversed.

Ezra H. Friedman, Assistant United States Attorney for the Southern District of New York, New York, N. Y. (Robert M. Morgenthau, United States Attorney, and Andrew T. McEvoy, Jr., and Robert J. Geniesse, Assistant United States Attorneys, on the brief), *for appellee*.

[fol. 45] Kenneth W. Greenawalt, New York, N. Y. (Lawrence P. J. Bonaguidi and Davies, Hardy & Schenck, on the brief), *for defendant-appellant*.

OPINION—January 20, 1964

KAUFMAN, *Circuit Judge:*

On this appeal, Daniel Andrew Seeger contends that he was improperly denied an exemption from military service because his conscientious objections were not dependent upon "a belief in a relation to a Supreme Being" as required by §6(j) of the Universal Military Training and Service Act, 50 U. S. C. App. §456(j). Seeger was convicted of violating 50 U. S. C. App. §462, because of his refusal to submit to induction, as ordered by his local Selective Service Board. At his trial before Judge Levet without a jury, he stipulated that he received an induction notice and that he refused to comply with its terms.

The statute in question, as revised in 1948, provides that the Selective Service Act shall not "be construed to require any person to be subject to combatant training and service in the armed forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. Religious training and belief in this connection means an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code." 50 U. S. C. App. §456(j). In filling out the form for those who claim conscientious objector status, Seeger found himself unable to assert categorically that he believed in a Supreme Being.

Although the government has conceded that Seeger's abhorrence of war is both sincere and predicated on "religious training and belief," as the phrase had been defined by [fol. 46] this Court prior to the addition of the "Supreme Being" clause to the statute, *United States* v. *Kauten*, 133 F. 2d 703 (2d Cir. 1943), appellant's draft board denied the exemption on the basis of its finding that Seeger's views were not grounded upon "a belief in a relation to a Supreme Being." Seeger asserts that the "Supreme Being" requirement, as applied to him, constitutes a law respecting an establishment of religion, within the meaning of the First Amendment, and an arbitrary classification, violative of the due process clause of the Fifth Amendment.

I

As required by law, Seeger registered with his local draft board upon attaining his eighteenth birthday in September of 1953. Apparently, his pacifist sympathies had not yet become fully developed, for in filling out his classification questionnaire, he ignored the claim for conscientious objector exemption, and simply indicated that he believed himself entitled to a student deferment. Initially classified 1-A, Seeger subsequently received the 2-S deferment and remained in that classification until August, 1958, when he was once again reclassified as 1-A.

On July 12, 1957, Seeger wrote to his local board, and for the first time revealed the conscientious objections to military service which were to lead to his refusal to submit to induction, and ultimately, to his conviction. In this letter, and in the forms and statements which soon followed, he sought to put into words the deeply-rooted beliefs and sentiments which formed the basis of his claim for an exemption.

The initial letter was itself not lengthy. "As a result of the resolution of a number of problems of conscience with which I have been preoccupied for the past months," Seeger wrote, "I am bound to declare myself unwilling to participate in any violent military conflict, or in ac- [fol. 47] tivities made in preparation for such an undertaking. My decision arises from what I believe to be considerations of validity from the standpoint of the welfare of humanity and the preservation of the democratic values which we in the United States are struggling to maintain. I have concluded that war, from the practical standpoint, is futile and self-defeating, and that from the more important moral standpoint, it is unethical."

The nature and foundation of Seeger's objections were further illuminated in his response to the special form for conscientious objectors, prepared by the Selective Service System and forwarded to appellant by his local board. Although executing the claim for exemption from both combatant and non-combatant training and service, he significantly altered the wording of the printed form. Had he adopted the printed statement verbatim, Seeger would have declared that he was, "by reason of my religious

training and belief, conscientiously opposed to participation in war in any form * * *" Seeger was willing to endorse this oath as his own, but only after placing quotation marks around the word "religious," and deleting the words "training and."

His reply to the first question on the form, which inquired into his belief in a Supreme Being, was ultimately to prove fatal to Seeger's claim. Refusing to assert a simple belief or disbelief in a deity, Seeger felt compelled to express his convictions in more extensive terms. In a statement attached to the questionnaire, he explained his feeling that "the existence of God cannot be proven or disproven, and the essence of His nature cannot be determined. I prefer to admit this, and leave the question open rather than answer 'yes' or 'no.'" Seeger was anxious to explain, however, that "skepticism or disbelief in the existence of God does not necessarily mean lack of faith in anything whatsoever * * * Such personages as Plato, [fol. 48] Aristotle and Spinoza evolved comprehensive ethical systems of intellectual and moral integrity without belief in God, except in the remotest sense." Finally, rejecting dependence upon his Creator for a guide to morality, Seeger asserted "more respect for * * * belief in and devotion to goodness and virtue for their own sakes, and a religious faith in a purely ethical creed."

With obvious sincerity, Seeger articulately attempted further to expound the ethical position to which he felt driven by his conscience. "It is our moral responsibility," he wrote, "to search for a way to maintain the recognition of the dignity and worth of the individual, the faith in reason, freedom, and individuality, and the opportunity to improve life for which democracy stands." In language which underscored the ethical foundation of his faith, he decried "the tremendous spiritual price that man pays for his willingness to resort to the mass destruction of human life to perpetrate his 'ideals.'" "I cannot," Seeger insisted, "participate in actions which betray the cause of freedom and humanity. Experience with the past indicates that our armament policy will lead to war, and war, with its indiscriminate crushing of human personality, cannot preserve moral values. * * * To resort to immoral means is not

to preserve or vindicate moral values, but only to become collaborators in destroying all moral life among men."

Unmoved by his appeal, the selective service board voted to retain Seeger's 1-A classification, and ordered him to report for a pre-induction physical examination. When a personal appearance before the board failed to produce a different result, Seeger sought review by an Appeal Board which, in routine fashion, forwarded his file to the Department of Justice for an advisory opinion. The Department, in turn, requested the Federal Bureau of Investigation, as it does in all such cases, to investigate the accuracy and sincerity of Seeger's claims. And, as a result of this investigation, a highly favorable portrait of the [fol. 49] appellant began to develop.

Seeger, it was revealed, was the son of an "exceptionally religious" Roman Catholic family, and two of his uncles had become priests. An honor student in high school, Seeger's academic record in college was outstanding, and he had been selected as editor-in-chief of his college newspaper. Friends, teachers and employers interviewed by the Bureau spoke highly of his personal qualities, with particular emphasis being placed on Seeger's unquestioned integrity and sincerity. It was noted, finally, that Seeger had no record whatsoever of legal or economic difficulties.

A resumé of this investigation was forwarded to a Hearing Officer of the Department of Justice, and a hearing was conducted in which two witnesses joined Seeger to appear in his behalf. As summarized in the report of the Justice Department, introduced into evidence below, the Hearing Officer reported that Seeger "impressed him as a truthful decent young citizen who conscientiously objects to joining in any manner any activity which would bear on military affairs." Emphasizing Seeger's "extreme intelligence and lucidity," the Officer concluded "that the registrant is completely sincere in making his claim and that the character of registrant's beliefs, as adduced at the hearing and from the various documents on file, are honest." As further summarized by the Justice Department, the Officer added that Seeger "is opposed to participation in war in any form; that his conscientious objections are based upon his individual training and belief, both of which include research in religious and cultural fields;

[and] that the registrant is sincere in his claim which is made in good faith." The Hearing Officer concluded by recommending that the "appeal of the registrant based upon grounds of conscientious objection be sustained." [fol. 50] Despite this recommendation and the results of the FBI investigation, the Justice Department advised against allowing Seeger an exemption. It is immediately apparent from a reading of the Department's report that its decision rested entirely on the finding that Seeger's objections, however, sincere, were not based upon "a belief in a relation to a Supreme Being," as required by §6(j) of the Act. Presumably for the same reason, the Appeal Board voted unanimously to retain Seeger's 1-A classification. The Presidential Appeal Board affirmed, and Seeger was ordered to report for induction. Reporting as directed, and having been found acceptable for military service, Seeger refused to submit to induction and the present prosecution and conviction ensued.[1]

II

The legislative background which underlies our present draft laws and their exemption for conscientious objectors has been thoroughly and recently explored by this court in *United States* v. *Jakobson*, —— F. 2d —— (2d Cir. 1963); See also Conklin, Conscientious Objector Provisions: A View in the Light of *Torcaso* v. *Watkins*, 51 Geo. L. J. 252 (1963). It would be in order, however, to review that background in brief resumé. The Draft Act of 1917, 40 Stat. 78, afforded a statutory exemption only to those objectors affiliated with a "well-recognized religious sect or organization at present organized and existing and whose existing creed or principles forbid its members to participate in war in any form * * *" During the height of World War I, the constitutionality of this narrow provision was tersely upheld

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[1] Reporting, having been found acceptable, and taking all required steps short of the final submission to induction, Seeger is able here to challenge constitutional infirmities in the "jurisdiction" of the Board which denied him the exemption. *Estep* v. *United States*, 327 U. S. 114 (1946). Compare *Falbo* v. *United States*, 320 U. S. 549 (1944).

[fol. 51] against First Amendment challenges, despite its limitation to specific, organized historic pacifist churches. *Selective Draft Law Cases,* 245 U. S. 366, 389-90 (1918). But see Kurland, Religion and the Law 37-38 (1962).

The conscientious objector provisions of the 1940 selective service act were more broadly drafted. In this statute, in effect throughout the Second World War, an exemption from combatant training was afforded to any person "who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form." 54 Stat. 889. Called upon to illuminate the congressional reference to "religion," Augustus Hand, writing for this court in *United States* v. *Kauten,* 133 F. 2d 703 (2d Cir. 1943) offered this often-cited definition: "Religious belief arises from a sense of the inadequacy of reason as a means of relating the individual to his fellow-men and to his universe—a sense common to men in the most primitive and in the most highly civilized societies. It accepts the aid of logic but refuses to be limited by it. It is a belief finding expression in a conscience which categorically requires the believer to disregard elementary self-interest and to accept martyrdom in preference to transgressing its tenets * * * Recognition of this obligation moved the Greek poet Menander to write almost twenty-four hundred years ago: 'Conscience is a God to all mortals'; impelled Socrates to obey the voice of his 'Daimon' and led Wordsworth to characterize 'Duty' as the 'Stern Daughter of the Voice of God.'"

"There is a distinction," the Court continued, "between a course of reasoning resulting in a conviction that a particular war is inexpedient or disastrous and a conscientious objection to participation in any war under any circumstances. The latter, and not the former, may be the basis of exemption under the Act. The former is usually a political objection, while the later, we think, may justly be regarded as a response of the individual to an inward [fol. 52] mentor, call it conscience or God, that is for many persons at the present time the equivalent of what has always been thought a religious impulse." 133 F. 2d at 708.

Yet, while this expanded concept of religious belief was adopted in this circuit, *United States ex rel. Phillips* v. *Downer,* 135 F. 2d 521 (2d Cir. 1943); *United States ex rel.*

Reel v. *Badt*, 141 F. 2d 845 (2d Cir. 1944), and was recognized as a constitutionally required definition of religion, *West Virginia State Board of Education* v. *Barnette*, 319 U. S. 624, 658 (1943) (dissenting opinion of Frankfurter, J.), it was repected in favor of a narrower standard by the Court of Appeals for the Ninth Circuit in *Berman* v. *United States*, 156 F. 2d 377, cert. denied, 329 U. S. 795 (1946). Over the vigorous dissent of Judge Denman, the *Berman* court held that a belief which was not dependent upon faith in a Diety or superhuman power was in no sense religious, as Congress used the term. In revising the conscientious objector provision for the Selective Service Act of 1948, Congress expressly approved the *Berman* definition, and specifically required a "belief in a relation to a Supreme Being" as a pre-requisite for exemption.

III

The exemption, as revised in 1948 by the addition of the "Supreme Being" definition of religion, has been upheld against constitutional challenges by the courts of this and other circuits on several occasions since its enactment. *United States* v. *Bendik*, 220 F. 2d 249 (2d Cir. 1955);[2] [fol. 53] *Clark* v. *United States*, 236 F. 2d 13 (9th Cir. 1956), cert. denied, 352 U. S. 882 (1956); *George* v. *United States*, 196 F. 2d 445 (9th Cir. 1952), cert. denied, 344 U. S. 843. Most recently, the Court of Appeals for the Ninth Circuit, in a brief, three-paragraph opinion, refused to reconsider its holdings in the *Clark* and *George* cases, and adhered to its position that the Supreme Being requirement

[2] In no real sense may our decision today be said to "overrule" *Bendik*. From a reading of the *Bendik* opinion, it is clear that the court did not consider the argument that the Supreme Being requirement distinguished *among* religious beliefs, the question we decide today. *Bendik*, rather, was concerned with the permissibility of a distinction between religious and nonreligious objectors. For this reason, as well as the fact that the grounds upon which *Bendik* relied were placed in serious question by *Speiser* v. *Randall*, *infra*, *Bendik* neither conflicts with nor can be dispositive of the present appeal.

was a permissible legislative classification. *Etcheverry* v. *United States*, 320 F. 2d 873 (9th Cir. 1963), cert. denied, —— U. S. —— (32 U. S. L. Week 3205, December 2, 1963). Like the trial judge below, *Bendik*, *Clark* and *George* held that the exemption for conscientious objectors was an act of legislative grace, and could hence be granted upon any condition which Congress desired to impose. We find it unnecessary to determine whether an exemption for some or all conscientious objectors is a constitutional necessity, or is merely dependent upon the will of Congress. See *Selective Draft Law Cases*, 245 U. S. 366 (1918); *Hamilton* v. *Regents*, 293 U. S. 245 (1934). Compare *School District of Abington Township* v. *Schempp*, 374 U. S. 203, 250-53 (1963) (concurring opinion of Brennan, *J.*). For it now seems well-established that legislative power to deny a particular privilege altogether does not imply an equivalent power to grant such a privilege on unconstitutional conditions. See *Speiser* v. *Randall*, 357 U. S. 513 (1958). It could hardly be argued, for example, that the ability of Congress to deny an exemption to all conscientious objectors would permit Congress to limit that exemption to objectors of one particular religious denomination. We are thus compelled to determine the constitutionality of the particular limitation involved, and to consider whether the requirement of a belief in a Supreme Being could be validly [fol. 54] employed to reject Seeger's claim to an exemption under existing constitutional doctrines.

IV

In *Everson* v. *Board of Education*, 330 U. S. 1 (1946), the Supreme Court offered what has perhaps become the most frequently quoted exposition of the significance of the "establishment clause." In the words of the Court, " 'the establishment of religion' clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or to remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing

religious beliefs or disbeliefs, for church attendance or non-attendance * * * In the words of Jefferson, the clause against establishment of religion by law was intended to erect 'a wall of separation between church and state.'"

But, if the Supreme Court has been steadfast in its insistence that government refrain from "aiding" one religion or all religions, *School District of Abington Township* v. *Schempp*, 374 U. S. 203 (1963); *Engle* v. *Vitale*, 370 U. S. 421 (1962); *Illinois ex rel. McCollum* v. *Board of Education*, 333 U. S. 203 (1948), it has been equally vigilant in rejecting any reading of the First Amendment which might dictate a policy of governmental hostility to religion or religious beliefs. *Zorach* v. *Clauson*, 343 U. S. 306 (1952); *Everson* v. *Board of Education, supra.* The Constitution "requires the state to be a neutral in its relations with groups of religious believers and non-believers; it does not require the state to be their adversary." *Everson* v. *Board of Education*, 330 U. S. at 18. Indeed, one member of the [fol. 55] Court has recently cautioned against a rigid interpretation of the establishment clause for fear of treading upon the individual citizen's right to the free exercise of his religion, a privilege equally basic to the First Amendment. *School District of Abington Township* v. *Schempp*, 374 U. S. at 247 (concurring opinion of Brennan, *J.*). And the "free exercise" clause has been interpreted so as to require government to afford private citizens the utmost freedom to remain true to their religious faith, and to observe the practices sacred to their religion, except when such conduct would impinge upon the equal rights of others, or would interfere with an overriding social objective. See *Sherbert* v. *Verner*, 374 U. S. 398 (1963); cf. *Braunfeld* v. *Brown*, 366 U. S. 599 (1961).

Although stopping short of an argument that the First Amendment compels an exemption for those whose religions prohibit participation in war, the government invokes just such a view of the "free exercise" clause to support the legislative classification challenged in the present case. In essence, the government appears to argue that the spirit of the "free exercise" clause is satisfied when religious objectors are permitted to avoid a course of conduct which their religion condemns. Stated in other words, the government's argument is that Congress was merely

seeking to give the greatest possible latitude to the free exercise of religion when it enacted the conscientious objector provisions; since the Constitution does not require that a similar freedom be afforded the exercise of non-religious beliefs, it is reasonable to distinguish between them.

It is, of course, vital to such a line of reasoning that "religion" and "religious" be properly defined. "A statute could scarcely be defended * * * if it protected the 'free exercise' of only a few favored religions or preferred some religions over others without reasonable basis for doing [fol. 56] so." *United States* v. *Jakobson*, —— F. 2d —— (2d Cir. 1963). In this regard, the government attempts to justify the "Supreme Being" definition by asserting the propriety of a distinction between beliefs which are solely the result of individual reflection and those which the believer assumes to be the product of divine commands. Congress would be justified, or so is argued, in refusing to defer to those individuals who merely invoke their own fallible judgment in opposition to that of the legislature; it would be less so with respect to those whose refusal to serve is based upon obedience to a power higher than that exercised by a mortal Congress.

But while we find this argument persuasive, we are unable to consider it dispositive of the case before us. For we feel compelled to recognize that a requirement of belief in a Supreme Being, no matter how broadly defined, cannot embrace all those faiths which can validly claim to be called "religious." Thus it has been noted that, among other well-established religious sects, Buddhism, Taoism, Ethical Culture and Secular Humanism do not teach a belief in the existence of a Supreme Being. *Torcaso* v. *Watkins*, 367 U. S. 488, 495 n. 11 (1961). Indeed, our country has long prided itself on the enormous diversity of religious beliefs which have been able to find acceptance and toleration on these shores. In this regard, Mr. Justice Brennan has recently explained the development of judicial attitudes towards the First Amendment, by observing that "our religious composition makes us a vastly more diverse people than were our forefathers. They knew differences chiefly among Protestant sects. Today the Nation is far more heterogeneous religiously, including as it does substantial

minorities not only of Catholics and Jews but as well of those who worship according to no version of the Bible and those who worship no God at all." *School District of* [fol. 57] *Abington Township* v. *Schempp*, 374 U. S. 203, 240 (1963) (concurring opinion). In the face of this vast conglomeration of differing ideas and ideals, it is not surprising that no single concept may be found which is common to all.

In *Torcaso* v. *Watkins*, 367 U. S. 488 (1961), the Supreme Court struck down as invalid a state statute requiring notaries public to affirm their belief in the existence of God. Although referring to the evils historically attendant upon the requirement of a religious oath for public office, the Court was careful to place its decision on far broader grounds. Government could not, the *Torcaso* court declared, place the power and authority of the state "on the side of one particular sort of believers—those who are willing to say that they believe in 'the existence of God.'" Belief in a Deity was, for the Court, "a belief in some particular kind of religious concept." And the requirement that candidates for office affirm their devotion to such a concept was, the court held, beyond the constitutional powers of the state.

In a very real sense, the decision in *Kauten* was the precursor of *Torcaso*. For in *Kauten's* broad definition was embraced the recognition that "'religion" could not be confined to a belief in a supernatural power; that today, a pervading commitment to a moral ideal is for many the equivalent of what was historically considered the response to divine commands. The *Kauten* test represents an acknowledgment that for many in today's "skeptical generation," just as for Daniel Seeger, the stern and moral voice of conscience occupies that hallowed place in the hearts and minds of men which was traditionally reserved for the commandments of God. It is in this respect that *Kauten* has found its way into the pages of the United States Reports, generally accompanied by a recognition of the impropriety inherent in a governmental determination of what [fol. 58] is a "true" or "acceptable" religious belief. See *Saia* v. *New York*, 334 U. S. 558, 564 (1948) (dissenting opinion of Frankfurter, *J.*); *West Virginia State Board of*

Education v. *Barnette, supra,* at 659. Cf. *United States* v. *Ballard,* 322 U. S. 78 (1944).

And if a distinction between internally derived and externally compelled beliefs raises serious theoretical problems, the practical difficulties which it engenders are no less perplexing. When Daniel Andrew Seeger insists that he is obeying the dictates of his conscience or the imperatives of an absolute morality, it would seem impossible to say with assurance that he is not bowing to "external commands" in virtually the same sense as is the objector who defers to the will of a supernatural power. Indeed, we would create an impossible task for draft boards and courts alike were we to insist upon a distinction between Arno Sascha Jakobson's devotion to a mystical force of "Godness" and Daniel Andrew Seeger's compulsion to follow the paths of "goodness."[3]

It is to be emphasized once again that there is no question in this case, as there was in *Jakobson,* as to the sincerity of Seeger's beliefs or the tenacity with which they are held. With commendable candor, the government has fully conceded that Seeger's views fall squarely within the definition of "religion" announced for this Circuit in *Kauten,* and subsequently reaffirmed in *Phillips* and *Reel.* [fol. 59] While we are, therefore, most reluctant to find that Congress, in a sincere attempt to balance the personal rights of a minority with the insistent demands of our national security, has transgressed the limits imposed by the Constitution, we are compelled so to hold. This is not

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[3] The government has argued that the "Supreme Being" standard may be justified as implifying the task of the draft boards by providing an objective standard for the determination of sincerity and religious belief. In light of *Jakobson's* expanded definition of "Supreme Being," the test would hardly be free from complexities. In any event, "government may not employ religious means to serve secular interests, however legitimate they may be, at least without the clearest demonstration that nonreligious means will not suffice." *School District of Abington Township* v. *Schempp,* 374 U. S. 203, 265 (1963) (concurring opinion of Brennan, *J.*).

to deprecate the enormity of the congressional burden; we fully appreciate the duty and powers of Congress to ensure peace and stability in these unstable times by recruiting citizens for the armed forces. We further recognize the concern for personal liberties and religious freedom which led to the enactment of the conscientious objector exemption in the face of the perils which confront us throughout the world. At the same time, however, we cannot conclude that specific religious concepts, even if shared by the overwhelming majority of the country's organized religions, may be selected so as to discriminate against the holders of equally sincere religious beliefs. Especially when considered in the light of *Torcaso* and the still more recent teachings of the Supreme Court, a line such as is drawn by the "Supreme Being" requirement between different forms of religious expression cannot be permitted to stand consistently with the due process clause of the Fifth Amendment. We are convinced that the believer in a Supreme Being is not for that reason alone more entitled to have his conscience respected by a draft board than is Daniel Seeger. In the words of Madison's historic Remonstrance, recently cited by the Supreme Court in *Engle* v. *Vitale*, 370 U. S. 412, 421 (1962), "religion is too personal, too sacred, too holy, to permit its 'unhallowed perversion' by a civil magistrate."

We wish to make clear, moreover, that by holding the "Supreme Being" requirement to create an impermissible classification under the circumstances present here, we are not pasing upon the validity of legislative classifications [fol. 60] in terms of religion in any other context.[4] As an

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[4] It is not inappropriate to note, however, that two courts recently confronted with statutes providing tax exemptions for "religious" organizations interpreted "religion" so as to include groups possessing no theistic beliefs, expressly to avoid constitutional difficulties. *Fellowship of Humanity* v. *County of Alameda*, 315 P. 2d 394 (Cal. App. 1957); *Washington Ethical Society* v. *District of Columbia*, 249 F. 2d 127 (D. C. Cir. 1957). See also 58 Colum. L. Rev. 417 (1958).

observer has recently noted, "to characterize constitutional limitations as inflexible imperatives is an unproductive form of judicial activity." Pollak, Foreword: Public Prayers in Public Schools, The Supreme Court—1962 Term, 77 Harv. L. Rev. 62, 67 (1963). We feel it the soundest course to deal with such problems as they are presented to us, and not to lay down hard and fast rules which may be inappropriate to some of the many and varied interactions between government and religion.

In *Zorach* v. *Clauson*, 343 U. S. 306, 313 (1952), the Supreme Court acknowledged that "we are a religious people whose institutions presuppose a Supreme Being." Our disposition of this appeal is in keeping with this declaration. It has often been noted that the principal distinction between the free world and the Marxist nations is traceable to democracy's concern for the rights of the individual citizen, as opposed to the collective mass of society. And this dedication to the freedom of the individual of which our Bill of Rights is the most eloquent expression, is in large measure the result of the nation's religious heritage. Indeed, we here respect the right of Daniel Seeger to believe what he will largely *because* of the conviction that every individual is a child of God; and that Man, created in the image of his Maker, is endowed for that reason with human dignity.

Judgment reversed.

[fol. 61] IN THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Present: Hon. J. Edward Lumbard, Chief Judge, Hon. Irving R. Kaufman, Hon. Paul R. Hays, Circuit Judges.

UNITED STATES OF AMERICA, Plaintiff-Appellee,

v.

DANIEL ANDREW SEEGER, Defendant-Appellant.

JUDGMENT—January 20, 1964

Appeal from the United States District Court for the Southern District of New York.

This cause came on to be heard on the transcript of record from the United States District Court for the Southern District of New York, and was argued by counsel.

On Consideration Whereof, it is now hereby ordered, adjudged, and decreed that the judgment of said District Court be and it hereby is reversed.

A. Daniel Fusaro, Clerk.

[fols. 62-75] [File endorsement omitted].

[fol. 76] Clerk's Certificate to foregoing transcription omitted in printing.

[fol. 77] In the United States District Court, Southern District of New York

62 Cr. 1003

United States of America, Plaintiff,

vs.

Daniel Andrew Seeger, Defendant.

Transcript of hearing—March 26, 1963

Before: Hon. Richard H. Levet, District Judge.

New York, New York.

Appearances:

Robert M. Morgenthau, Esq., United States Attorney,
Ezra Friedman, Esq., Asst. U. S. Attorney.
Kenneth W. Grennawalt, Esq., Attorney for Defendant.

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[fol. 78] Motion to Dismiss Indictments and Discussion Thereon

Mr. Greenawalt: I do make a motion to dismiss the indictment on the ground it has not been proved beyond a reasonable doubt. Would your Honor like to have the legal basis for my motion at this time, as well as the factual basis? What Mr. Friedman and I were talking about yesterday is this——

The Court: Or you may reserve until after the defense is put in, if there is to be proof.

Mr. Greenawalt: What I was going to say is that we were hoping the Court might reserve decision on this motion.

The Court: I will.

Mr. Greenawalt: For this reason: That Mr. Seeger has been endeavoring for some time now to get expert witnesses to testify for him.

The Court: On what?

Mr. Greenawalt: To make it even more apparent than it is from the papers that his position is based on a religious training and belief within at least the meaning of the draft act, except in so far as that may involve a belief in the Supreme Being. In other words, as I read to you, the Justice Department in their memorandum did not say that Mr. Seeger's objection was based upon essentially political, [fol. 79] sociological or philosophical views, or a merely personal moral code.

The Court: Aren't we beyond that?

Mr. Greenawalt: No.

The Court: In view of the ultimate disposition of the matter?

Mr. Greenawalt: Well, the point is this: If I understand Mr. Friedman's position, and he said it to me yesterday, he says it also in his brief, I do not accept this as a complete position, but at least as I understand his position it is that the conscientious objection position which has been espoused by the registrant in this case would have sufficed for exemption under the Act as it existed in 1940—that is the cases we referred to—but his point is since then there has been an amendment to the Act which closes that door. My position is not only partly that, I would agree with the government under the 1940 Act, that under these cases Mr. Seeger would have been exempted, clearly exempted, as a conscientious objector based on religious training, and so on.

I go one step further, however, I say since these cases were decided, and since the Act was amended, and since [fol. 80] the cases which he relies upon have since been decided and held that you have to have a belief in a Supreme Being before you can take advantage of the religious training clause—in other words, a religious training and belief clause has to be based upon a Supreme Being, belief in a Supreme Being—and unless you have belief in a Supreme Being then there is no religious training or belief under which you can be exempt under the present draft act.

If that is their position, and it is clearly understood that is the point the government denied him an exemption on,

there is no point for further testimony, because this testimony would have been along those lines.

We had one professor lined up, and he has taken a trip and won't be back for several weeks, a very distinguished theologian. His testimony would have been that Seeger's statement as set forth in these papers is that of a person who has a religious training and belief, and it is not merely a philosophical or political or sociological or moral basis, it is religious, but it isn't a religion which is based upon a belief in a Supreme Being.

Now, under the definitions of religion which have oc- [fol. 81] curred in the Kauten, Downer and Badt cases, there is absolutely no question about that.

The Court: Unfortunately for your defendant we are not operating under that statute. I will reserve decision on your motion.

Now, proceed with your proof.

Mr. Greenawalt: The question is this: If the government takes the position, as I understand it, that we are not to put in any further proof in this case at all—he says that he will object to any proof we put in.

The Court: I have not heard the tender of any proof, and I, hence, am not ruling on it until there is either proof or a tender of it.

Mr. Greenawalt: I am not in a position today, and I explained this to the government, because I need certain expert witnesses for the reasons I indicated.

The Court: I cannot very well hold this case up for weeks and weeks in order for somebody to come back from a long, long trip.

Mr. Greenawalt: I don't think we need to do that.

The Court: You either have to fish or cut bait.

[fol. 82] Mr. Greenawalt: I don't think we need do that, but we didn't know until this past week this man was away, late last week we learned it, and we are trying now to get other people.

The Court: If you want to tender some proof, I will listen to the tender, and if there is an objection I will have to rule on the tender, if you want to do that.

Mr. Greenawalt: Our proof would be similar—I might say, your Honor, that our proof would be similar to that

presented in the Horst case. I don't know whether you are familiar with that citation.

The Court: I don't know which one you have in mind.

Mr. Greenawalt: United States of America against Peter Scott Horst.

The Court: What is the citation?

Mr. Greenawalt: Do you know the citation, Mr. Friedman?

Mr. Friedman: I am afraid I don't, no.

Mr. Greenawalt: I have the opinion here, but I don't have the citation.

Mr. Friedman: This is an unreported decision, your Honor, in the Eastern District of Michigan in 1958, I [fol. 83] believe.

The Court: I don't know it.

Mr. Friedman: I have a copy of the transcript, which is not very clear, and can't be reproduced, but I will tender it to your Honor, unless Mr. Greenawalt has a copy.

Mr. Greenawalt: Yes, I have a copy. But, your Honor, it is hard to phrase a tender when you don't know what precisely the witness is going to testify. But I can say this, the tender is this——

The Court: I don't know what you are going to do then.

Mr. Greenawalt: The tender is this: These people who are experts in religion would testify, as they did in the Horst case, that religion is not confined to a belief—that religious belief is not one confined to a belief in a Supreme Being, that religion has a far greater breadth than merely a belief in a Divine Being, and that there are various definitions and concepts of religion which are real concepts of religion which do not involve necessarily a belief in a Divine Being, and if they were called upon to testify here they would say that Daniel Seeger's the registrant's, views [fol. 84] as set forth in his papers constitute a religious belief, and that his conscientious objection is, basically, that of a religious person, although it is not based on a belief in a Supreme Being.

In that connection, there have been two recent cases which I think your Honor should know about, which would be set forth in our brief. One of them is the case of Fellowship of Humanity against County of Alameda, which was decided in District Court of Appeal in California. I will

give you the citation on that. The one I have in my hand is 315 Pacific Reporter 2d, at 394. There is another case——

The Court: That is a state decision, is it not?

Mr. Greenawalt: That's right.

The Court: Is it on a draft case?

Mr. Greenawalt: No, it is not. And there is another case which has been relatively recently decided, I think it is in the District Court in Washington. It is the Washington Ethical Society against the District of Columbia. That is at 249 Fed. 2d 127, 1957.

In these two cases—I am sorry to get away a little bit from our point of evidence, but I am trying to give you [fol. 85] the idea of what these witnesses would testify to if they were called.

In these two cases, which are very recent, and which in turn, I may say, reflect reasoning which was adopted by the United States Supreme Court in the Torcaso case, that under the First Amendment you cannot distinguish between a religion that is based upon a Supreme Being and on which is not based on a Supreme Being. In other words, you cannot distinguish or aid one religion as against all religions or as against no religion.

I am frank to say that those two cases arose under the tax statutes, and when the case came up regarding these two bodies as to whether or not they were religious, in those two cases there is a compilation—if I may say so a very good one in the California case—of all the recent authorities up to that date on the definition of religion, and they include the definitions which your Honor has referred to where religion is defined as a belief in a Supreme Being. It also includes the many definitions in court cases or otherwise where a religious belief is said not to be so restricted, and includes other types of beliefs besides that of a Supreme Being.

[fol. 86] That is the only point of this testimony. As I understand Mr. Friedman's position, it is that no matter what is said in the course of any testimony offered now by experts it would not change the material which is in these papers. I think there is a difference of opinion between district courts on this subject, and I understand some courts have taken the position that the registrant cannot offer any testimony either to explain his record in the

Selective Service process or to call experts to explain his position.

The Court: These experts that you would contemplate calling would merely testify that his position was based upon religious training and belief, but would not be able, of course, I assume, to testify that it has anything to do with the individual's belief in relation to a Supreme Being involving duties superior to those arising from any human relation. Is that so, in substance?

Mr. Greenawalt: I think that is substantially correct, your Honor. In other words, his religious belief is not based on a supernatural person or a Supreme Being known as God.

The Court: What is your position, Mr. Friedman, with respect to proper proof?

[fol. 87] Mr. Friedman: First of all, as to the propriety of bringing in witnesses and going outside the Selective Service file itself, I think that in a matter such as this, and for the purpose for which the evidence is offered, that it would be proper, generally speaking, for such a tender to be made and for the evidence to be accepted. And that is because one of the Court's functions and problems here is to try to ascertain Congressional intent. Congress using language, using words, what do these words mean?

The Court: Are you willing to stipulate if So-and-So were called he would testify to the effect that I have just attempted to suggest?

Mr. Friedman: I don't go quite as far as Mr. Greenawalt. I feel that a witness, if called, would undoubtedly testify the views expressed by Mr. Seeger in his various documentations and appearances before the Board could be considered to be a religious position on a somewhat broader definition of religion.

I feel, however, that this is clearly not sufficient under the 6 (j) section as it now stands.

The Court: Whether it is sufficient or not, if you want [fol. 88] to bridge this impasse, you may consider stipulating that if he were called he would so testify, without conceding that that is sufficient to create any exemption.

Mr. Friedman: And I would like to point out one possible pitfall to the Court, and this is really where Mr. Greenawalt and I why we were unable to come to an agreement,

and that is if that witness were to so testify, what the effect would have been under the prior statute, I feel very strongly, as I stated in my brief, that had this case arisen in the second circuit under the 1940 Act, where only the first sentence of what is now 6 (j) appeared, Mr. Seeger would have been successful in obtaining his claim. However, even without the specific definition added in 1948 by Congress, he would not have been successful in the ninth circuit, and what I am not prepared to concede is that Congress necessarily intended under the first sentence a broad definition of religion which would cover Mr. Seeger and which was whittled away in 1948. Since the Supreme Court has never resolved the controversy between the ninth and the second circuits, we do not know what the prior law was, and since a constitutional argument is being made to your Honor, [fol. 89] and assuming that your Honor is prepared to follow along with the defense line of reasoning, one of his first questions is going to be: Is this "Supreme Being" a definition which has been added by the 1948 Act, and which defendant practically agrees forecloses him from the exemption—is that unconstitutional?

Let us assume it is unconstitutional. Where do we go from there, if we can strike that section out of the clause? We revert to the 1940 Act. And what did the 1940 Act mean? Was the second circuit correct that religion was to be taken in the three cases that developed that line—Kauten, Downer and Badt—or was the ninth circuit correct that even without those words that was the meaning actually in the statute?

The Court: If I conclude the interjection of this second sentence is unconstitutional, that leaves the Act in substance the way it was before, doesn't it?

Mr. Friedman: It leaves it literally exactly what it was before, and then the question is: What did Congress mean at that time?

The Court: Then the Court has to be guided by the deci- [fol. 90] sions in this circuit. Therefore, I have no problem, if I so decide.

Mr. Friedman: Then I would argue further as follows. I would argue that when they adopted the adding of the definition in 1948, they were merely making clear what they

meant under the 1940 Act. Defense counsel would argue the other way, that the Act was correctly interpreted by the second circuit.

The Court: I am concerned at this juncture with the completion of any factual presentation. You will either have to agree to stipulate so and so, or you may refuse, if you care to do so.

Mr. Friedman: I have offered—and I don't know whether we are closer to agreement—that were expert witnesses to be called they would testify that the claim made by the defendant would have ben sufficient to meet the tests laid down by the second circuit court decision in the series of three cases previously cited. That is to say, thaf religion is broad enough to embrace a coherent, deeply felt humanitarian, ethical, thoroughgoing abhorrence of war without a belief in a Supreme Being or super or supra-natural consequences.

The Court: Is that sufficient for your ends, Mr. Greenawalt?

[fol. 91] Mr. Greenawalt: He put in a couple of words I am not sure about—humanitarian, is that what he said?

Mr. Friedman: That's correct. I think those words are found in those decisions. In other words, what the second circuit court said was that when a man is not resisting service because of some political view—he is a Nazi, he doesn't want to fight against Nazi Germany—or an economic view—he is a socialist, or a communist, and is not going to participate in a capitalist war—that this is not sufficient, but that where a man has a deep abhorrence of all war as ethically wrong, and he is responding to the voice of conscience that, according to the second circuit, this is what Congress meant to exempt, I feel that this is essentially what the defendant's position is. I do not think there is really any controversy between us at this point.

The Court: Do you want to take this stipulation?

Mr. Greenawalt: Your Honor, possibly we can get a little closer to this thing if we can say that the government might be willing, as he says, as I gathered in his brief he says, the conscientious position espoused by the registrant [fol. 92] would have been sustained under the 1940 Act, and then he cites the three second circuit decisions——

The Court: Do you want to stipulate to that? That is it, in substance, isn't it?

Mr. Friedman: That's correct, your Honor. There is some question in my mind as to whether the second circuit was correct. I personally feel that they were, that there is that one little loophole that perhaps the ninth circuit was properly interpreting the Congressional intent.

Mr. Greenawalt: Of course this brings us down to the definition of religion which is contained in the second circuit opinions, and——

The Court: What are you going to do with this stipulation? Let's not toss it around any more.

Mr. Friedman: I feel we are in agreement, and that I have met the stipulation.

Mr. Greenawalt: If I understand you—and this is where I hope we had reached this point—the government does not deny, as the attorney of the Justice Department did not deny, that Mr. Seeger's conscientious objection is based upon a religious belief. The only question is what kind of a religious belief is it based on? We admit it is not based [fol. 93] on a Supreme Being, but under the definitions of religion, under the three second circuit Court of Appeals' decisions mentioned, they would certainly come under the broad definition of religion based on that. If the government is willing to admit that, then we can go on.

The Court: Are you?

Mr. Friedman: I am willing to stipulate that the defendant's claims, as made in his Selective Service record, would have met the test laid down by the second circuit in the three decisions that the Congress intended a broad definition of religion, and that a response to the voice of conscience was a reaction to a religious impulse and met the test.

The Court: Under the old statute?

Mr. Friedman: As interpreted by the second circuit.

The Court: Do you want to take that stipulation? If so, please say so.

Mr. Greenawalt: I would like to take it without foreclosing me to a broader position, that, namely, under the present law Mr. Seeger's position would also include definitions of religion which have been stated more recently.

[fol. 94] The Court: I am afraid you will have to take it as it is. That does not preclude you from moving to dismiss this indictment on the ground that the second sentence of 456 (j) is unconstitutional, as I see it.

Mr. Greenawalt: That's right.

The Court: Well, take it or leave it.

Mr. Greenawalt: If I understand—I want to get this clear, because it is a rather subtle point, I believe. Mr. Friedman is willing to stipulate that——

The Court: Off the record.

(Discussion off the record.)

The Court: We will take a recess.

(Recess.)

The Court: Have you come to an agreement?

Mr. Friedman: We have reached an agreement, your Honor.

The Court: Will you read the stipulation?

Mr. Greenawalt: This is a little rough, but we will try to get it slowly.

Defendant's witnesses, if called—and I might say, parenthetically, the witnesses would be theological seminarians—would testify that defendant's beliefs and views, as set forth in the record which constitutes Government's Ex-[fol. 95] hibits 1-61, as the grounds on which he claimed exemption under Section 456 (j) of the Selective Service Act are religious and arise from religious training and belief by reason of which defendant is conscientiously opposed to participation in war within the definitions of religion as set forth in the cases of United States against Kauten, 133 Fed. 2d 703; United States ex rel Phillips v. Downer, 135 Fed. 2d 521, and United States ex rel Reel v. Badt, 141 Fed. 2d 845.

The Court: Is that stipulated by the government?

Mr. Friedman: That is stipulated by the government.

The Court: And the defendant's counsel?

Mr. Greenawalt: Yes, it is.

I want to state this now, that this does not—Mr. Friedman and I understand this does not preclude the defendant from arguing or contending that on the basis of his record that his religious views and beliefs might come within other

definitions of religion which have been stated in cases since these three cases. He is not stipulating that this was what [fol. 96] our witnesses would testify, but I am saying we don't want to be precluded from merely the definition which is contained in the Kauten case in so far as our argument is concerned.

The Court: There is no contention here by the defendant that the beliefs of the defendant coincide with the second sentence of Section 456 (j), is there?

Mr. Greenawalt: That's right, there is no contention that his belief is based on a Supreme Being. I am now addressing myself to a motion to dismiss.

The Court: You may address yourself to that if there is no further proof or proffer of proof, as I take it to be the case.

To clarify the issues, is there any claim of undue process in the adjudication below?

Mr. Greenawalt: You mean lack of due process?

The Court: Yes.

Mr. Greenawalt: I think not, your Honor, except that——

The Court: Except as to the result?

Mr. Greenawalt: No, no. No, I don't think we are raising —what you are talking about is procedural due process? [fol. 97] The Court: That is what I had in mind.

Mr. Greenawalt: So far as due process, along with the Fifth Amendment I don't agree with you, but under procedural due process I say there is no contention made by the defendant they did not do everything that should be done, except this. We do think part of this record should have been these two documents which I have mentioned.

The Court: You haven't offered them. I don't know what will happen.

Mr. Greenawalt: I can't get them. The government gave me blanks, and you will find the blanks are in the record.

Mr. Friedman: If your Honor please, the two blank dummy letters that are referred to are Government Exhibits 28 and 29. 28 and 29 are dummy letters which transmitted certain material back and forth between representatives of the Justice Department. They are not the documents, they do not pretend to be the documents, that Mr. Grennawalt is referring to. Mr. Greenawalt is referring to,

and it is conceded they do not appear in Government's Exhibits 1 through 60 in evidence, the hearing officer's report to the Department of Justice, and the Federal Bureau of [fol. 98] Investigation reports. It is the government's position that they are properly not a part of the record either before the Appeal Board or before this Court. This Court is reviewing the action of the Appeal Board, and should have before it and does have before it only the record that was before the Appeal Board.

The Court: Was there anythi g before the Appeal Board outside the resume of the FBI reports? That is, were the FBI reports before the Board?

Mr. Friedman: No, sir. That is all they got.

The Court: That seems to be enough then. We can eliminate any of these procedural problems, I take it.

Is there anythig further about the alleged unconstitutionality of this portion of the new section?

Mr. Greenawalt: May I comment about these two letters Mr. Friedman referred to? One of them says "FBI reports enclosed." And the other encloses a copy of "my letter to the Appeal Board for your information." This letter is the one that the hearing officer sent to the Justice Department with his recommendations of exemption status in this case, [fol. 99] and that is not part of the record. All we have is a blank on that.

As far as the FBI reports are concerned, there is attached to the Justice Department decision a resume of the FBI reports. But we do not have the FBI reports, and we do not have, and have never had, either one of these two documents. So, we don't have them here to offer in evidence.

Mr. Friedman may be right they are not properly a part of the record, but this is a matter of law, not a matter of fact.

Mr. Friedman: If your Honor pleases, the Corliss case in this circuit, United States against Corliss, 1960, and the Gonzales case in the Supreme Court, also 1960, I think are absolutely determinative of the issue that these are not properly before the Appeal Board and the regulations provide what documents should be before the Appeal Board. The FBI reports, and the hearing officer's report, are con-

sidered interdepartmental memoranda of the Department of Justice.

The Court: All right, as long as you know you face this you can supply me with authorities for the position you take.

[fol. 100] Now, is there anything else that has not been discussed other than the alleged unconstitutionality of this second sentence of 456 (j)?

Mr. Greenawalt: We are talking about my motion to dismiss?

The Court: Yes.

Mr. Greenawalt: Yes, your Honor. For the record now, I would like to state that this motion is also based on the unconstitutionality of Section 456 (j), which is the Universal Military Training and Selective Service Act, because it is in violation of the First Amendment of the United States Constitution, the religious clause, both inherently and as applied against the registrant in this case.

I also wish to move to dismiss on the ground that it is a violation of the Fifth Amendment of the United States Constitution, and also Article VI, Section 3, of the United States Constitution.

I also wish to point out the argument that we made before briefly, that we do not accept the point that this classification in the section referred to is constitutional. On the contrary, we take the position that the statutory classification has no reasonable relation to the legitimate purpose [fol. 101] of government and is discriminatory against people who do not have a religious belief based on a Divine Being or a Supreme Being.

In other words, we take the position that this classification in the Selective Service Act is unreasonable and arbitrary and in violation of the Fifth and First Amendments of the United States Constitution.

We also take the position that Seeger, on the basis of Seeger's papers alone, that he should have been entitled to exemtion under the Act. We feel that the hearing officer was correct in giving him exemption, and the Justice Department was wrong in denying him exemption.

This, of course, involves a definition of religious training and belief, and whether or not the definition which is contained in the Act itself can be accommodated to Mr.

Seeger's position as set forth in his papers. We realize that there is a difference of opinion in the record as to whether it can or can't, but we don't want to foreclose the argument at least that Seeger was entitled to exemption status under the present Act, quite apart from the prior Act, on the basis of the statement which he made in his papers.

[fol. 102] I think that is the essence.

The Court: All right, decision to dismiss is reserved.

Now, when will you submit your brief?

Mr. Greenawalt: Are we closing the whole case now, your Honor?

The Court: Of course:

* * * * * * *

[fol. 103] Reporter's Certificate to foregoing transcript omitted in printing.

[fol. 104]

GOVERNMENT'S EXHIBIT 3

SELECTIVE SERVICE SYSTEM

CLASSIFICATION QUESTIONNAIRE

50 66 35

3 38

SYSTEM
66

NOTICE TO REGISTRANT

INSTRUCTIONS

SELECTIVE SERVICE SYSTEM

CLASSIFICATION QUESTIONNAIRE

[illegible] 66 35

[illegible] 35

[illegible] SYSTEM.
66
[illegible]
N.Y.

NOTICE TO REGISTRANT

[illegible]

INSTRUCTIONS

[illegible]

[illegible] You are now o[illegible] with certificate attached to your [illegible] board.

[illegible] After this questionnaire has been returned to [illegible] your local board at once [illegible] only [illegible] which may affect your [illegible]

SSS Form No. 100 [illegible] (1)

[fol. 105] Statements in this questionnaire are confidential as prescribed in the Regulations

USE OF TYPEWRITER IN FILLING OUT THIS FORM

STATEMENTS OF THE REGISTRANT

IDENTIFICATION

(Complete all statements in this series.)

(Do not write in this space. Leave blank.)

NUMBER OF ARMED FORCES

(Type or print) Write a 1 if you are a member of one or more of the groups named in this series; if not a member of any of these groups, write a 2. Answer each item as indicated under the appropriate item or items.

Coast and Geodetic Survey,

the Army of the United States; Not on ACTIVE DUTY as a

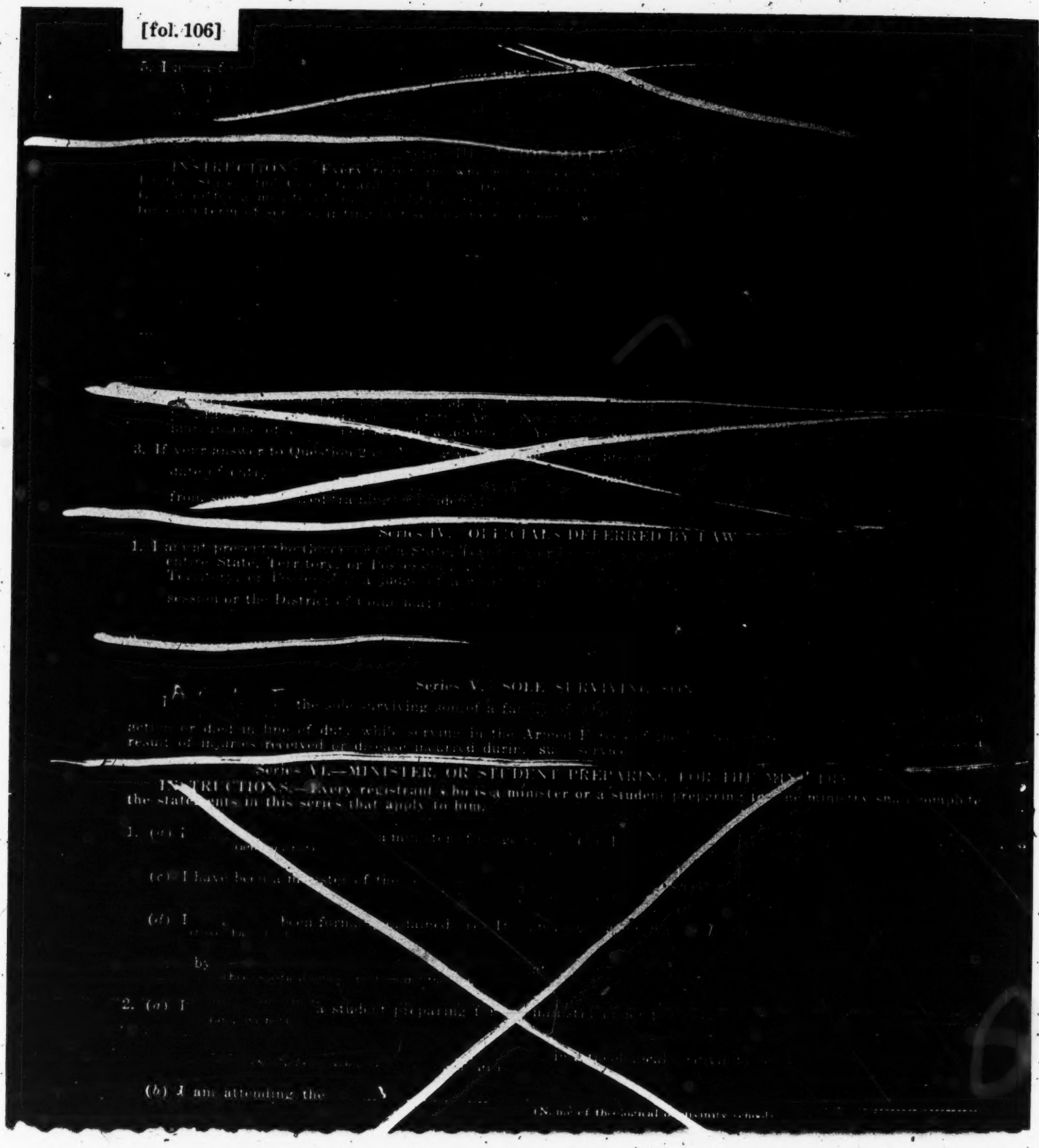
(Date)

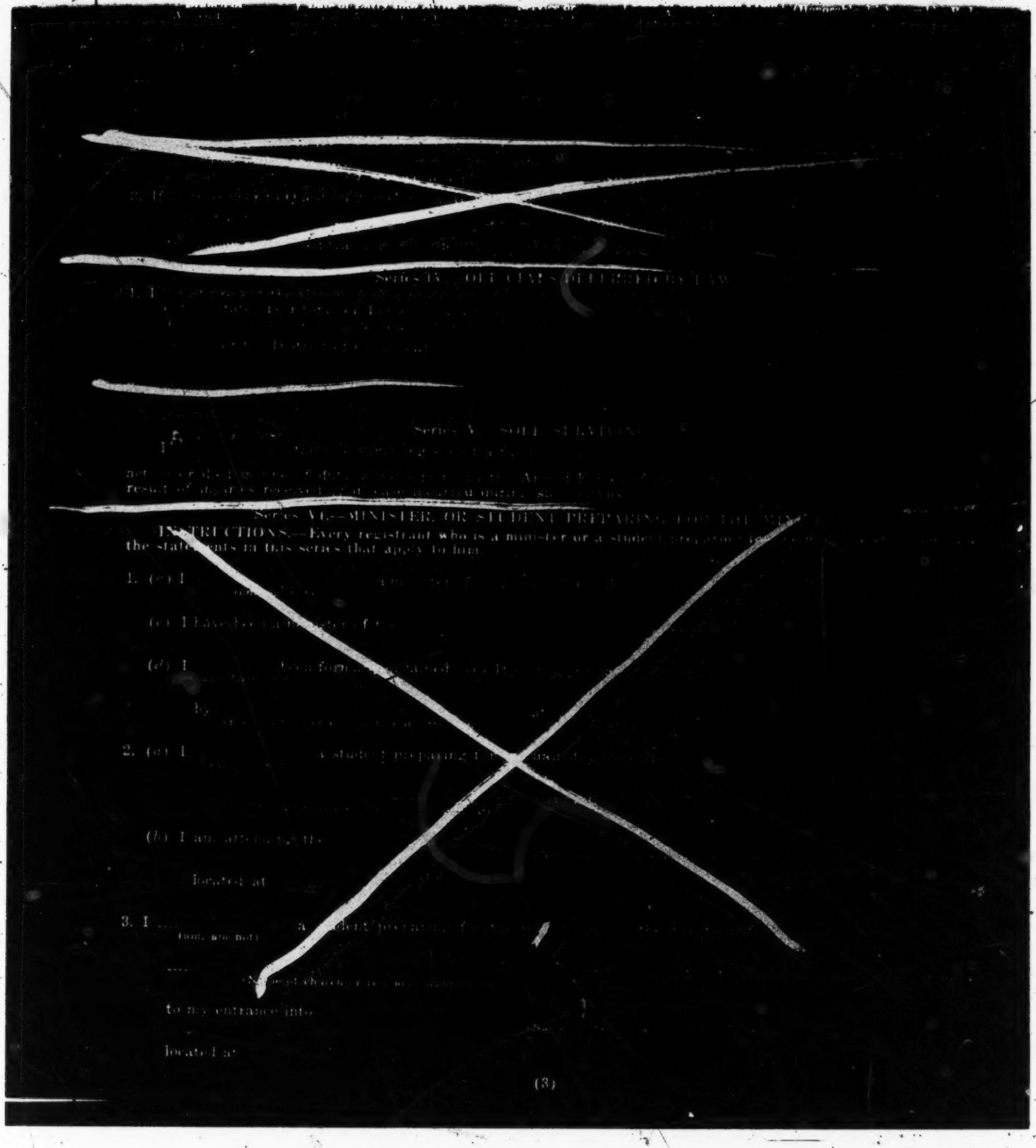
(Name of unit) by satisfactorily participating in such training as prescribed by the Secretary of Defense.

a member of the appropriate unit enrolled in the advanced course, senior division, Reserve Officers' Training Corps ☐; a member of the Air Reserve Officers' Training Corps ☐; a member of the Naval Reserve Officers' Training Corps entered upon the junior or senior year ☐; a midshipman, United States Naval Reserve ☐; in the

56

[fol. 106]





(3)

[fol. 107]

dependent uses no for

the box and on to check this qu

upon

SECTION VIII. PRESENT OCCUPATION

Check the following boxes appropriate to his case and follow the instructions

If this box is checked, complete Section XI.

draftsman, turret lathe operator,

practical nurse, etc.),

brief statement of your duties)

completion of

to continue bulletin 61, is it.

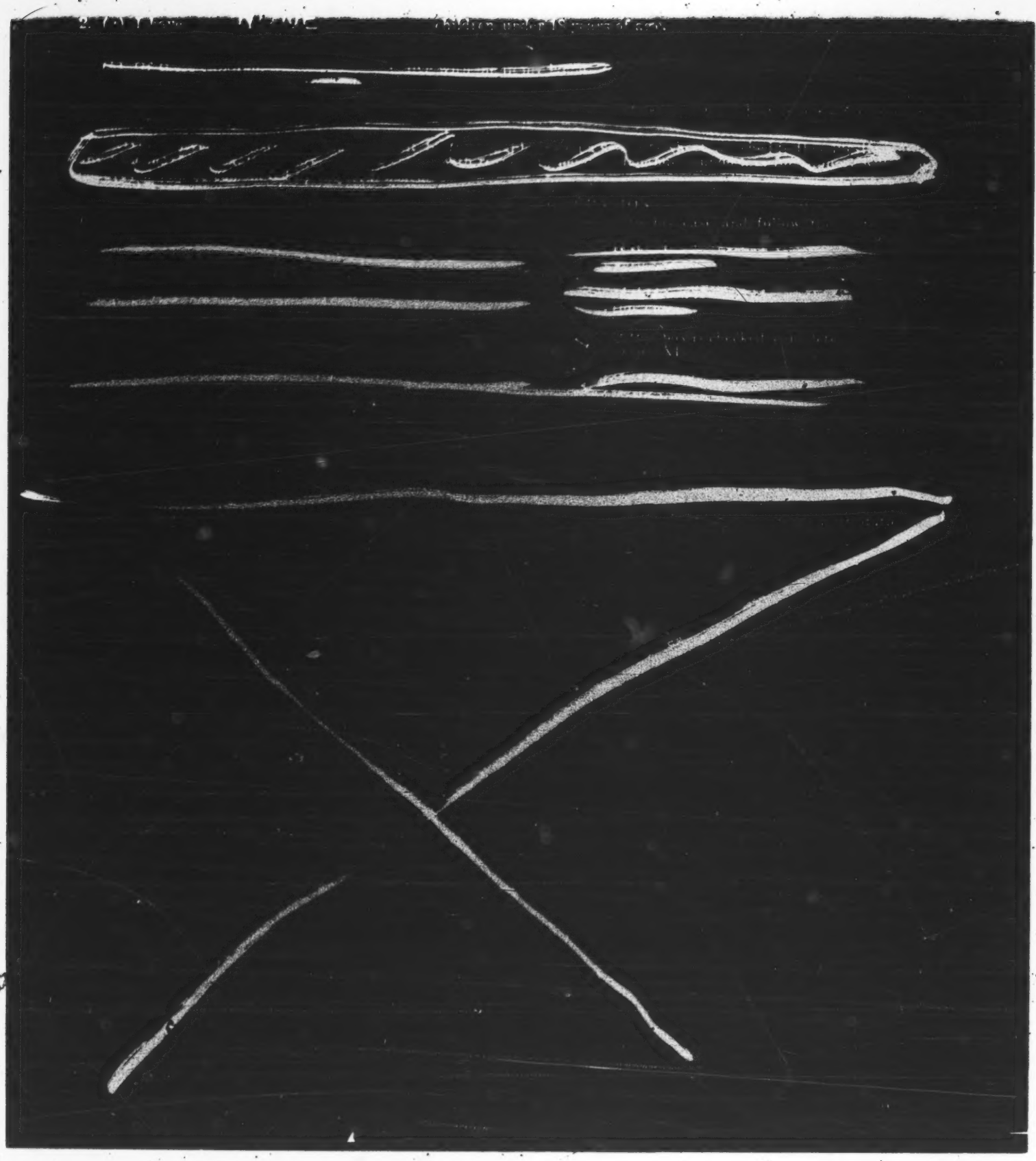
will be about

date)

date)

not hiring any help

write "Self" if self-employed)



[fol. 108]

SERIES IX.—AGRICULTURAL OCCUPATIONS

INSTRUCTIONS.—Every registrant who works on a farm, on ranch, or ranch land occupied

1. I [illegible]

(a) [illegible]

(b) [illegible]

(c) [illegible]

(d) [illegible]

(e) [illegible] teams

(f) [illegible] hand (Be [illegible])

(g) Unpaid family [illegible]

2. I have been engaged in farm work [illegible]

4. I [illegible] and per cent [illegible]

5. The [illegible] of the farm I operate

6. [illegible] If [illegible] farm [illegible]

7. [illegible] worked [illegible]

8. The [illegible] year round [illegible] on the farm is [illegible]

9. I am paid at the rate of [illegible] per hour [illegible]

10. Other facts which I consider necessary to present fairly the fa[illegible] I have [illegible] connection with it [illegible] a ground for classification are (if none, write "None") [illegible]

the local board should consider in determining your classification.

Series IX.—AGRICULTURAL OCCUPATION

INSTRUCTIONS.—Every registrant who works on a farm, or on a [illegible]

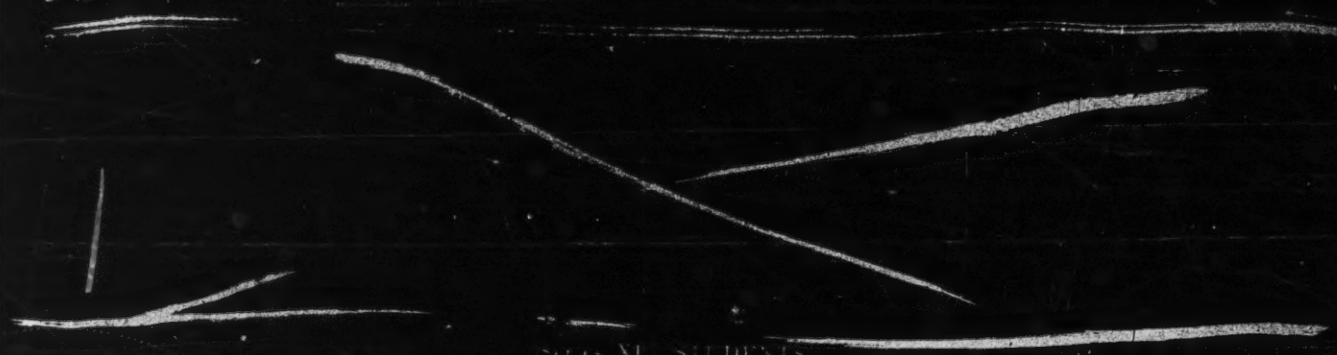
[illegible] agreement giving any [illegible] al
[illegible] [illegible] [illegible] [

[feb 109]

Series X - EDUCATION

1. I [illegible]

2. [illegible]



Series XI - STUDENTS

INSTRUCTIONS.—Every registrant who is a full-time high school or college student, except those who have completed [illegible] shall complete this series. A student who believes that he should be placed in a deferred class [illegible] student status should file with the local board the necessary supporting evidence.

1. (a) I [illegible] at present [illegible]

located at [illegible]

(Number, street, and city)

(Name of school)

(b) I [illegible] (Name of school) (If none, write "None") on (Date)

Series XII - CITIZENSHIP

INSTRUCTIONS.—(1) Every registrant shall complete the statements numbered 1 and 2 in this series.

1. I [illegible] on

(Name of registrant) (Date)

2. I [illegible] subject of [illegible]

INSTRUCTIONS.—(2) Every registrant who is not a citizen of the United States shall also complete the statements numbered 3, 4, and 5 when applicable.

3. [illegible]

4. I [illegible] Declaration of Intention to be [illegible] of the United States.

5. I [illegible] Index No.

Series XIII - COURT RECORD

INSTRUCTIONS.—Every registrant shall complete this series.

1. I [illegible] other than minor traffic violations, as recorded below. If none, write "None."

Offense	Date of Conviction (Month and Year)	Court (Name and Location)	Sentence
(Last conviction)			

Series XII.—CITIZENSHIP

INSTRUCTIONS.—(1) Every registrant shall complete the statements numbered 1 and 2 in this series.

1. I ... on ...
(Date)

2. I ...

(2) Every registrant who is not a citizen of the United States shall also complete the statements numbered 3, 4, and 5, when applicable.

3. My ...

4. I ... a Declaration ... of the United States.

5. I ... under No. ...

Series XIII.—COURT RECORD

INSTRUCTIONS.—Every registrant shall complete this series.

1. I ... other traffic violations, as recorded below; if none, write "None."

Name of Institution	Sentence

2. I ... now ... retained by the custody ... of criminal jurisdiction, or other civil authority ...

[fol. 110]

SERIES XV. PHYSICAL CONDITION

INSTRUCTIONS. Every registrant shall complete this series. Answer each question listed below by "Yes" and write "None" in each space where you have no answer to the question. If you answer to Question 1 is "Yes," attach an affidavit from the physician, hospital, or sanatorium to support the claim.

1. Do you wish to apply for relief from service in the Armed Forces on account of physical condition?

Answer: Yes ( ) No ( )

2. If your answer to Question 1 is "Yes," state the nature of the disease or defect which you claim disqualifies you for service in the Armed Forces.

3. Are you now or have you ever been under the care of a physician?

4. Are you now, or have you ever been under the care of a psychiatrist?

Answer: Yes ( ) No ( )

5. If your answer to Question 3 or Question 4 is "Yes," state the name and address of each physician or psychiatrist.

6. Have you ever received treatment from a physician for a nervous disorder?

7. If your answer to Question 6 is "Yes," state the name and address of each physician who treated you and the approximate date of each treatment.

REGISTRANT'S STATEMENT REGARDING CLASSIFICATION

INSTRUCTIONS. It is optional with registrant whether or not he completes this series. His answer shall not constitute a waiver of claim to deferred or other status. The facts set forth in his answer are to be considered by the local board in determining the classification of the registrant on the basis of the facts before it, which will be known to the registrant regardless of whether or not this statement is completed.

Below are set forth the facts set forth in the registrant's questionnaire which he considers pertinent to his classification.

The registrant may write in the space below or attach to this page of his additional statement of facts which he considers it important to bring to the attention of the local board in determining his classification.

REGISTRANT'S CERTIFICATE

INSTRUCTIONS. 1. Every registrant shall make the registrant's certificate. 2. If the registrant is unable to read the questions and his answers thereto shall be read to him by the person who prepared the questionnaire for him. 3. If the registrant is unable to write his name he shall make his mark and have place his mark in the presence of two persons who shall sign as witnesses.

NOTICE: Imprisonment for not more than five years or a fine of not more than $10,000, or both, and imprisonment, is provided by law as a penalty for knowingly or wilfully making a false statement or certificate regarding or affecting any matter within the jurisdiction of any department or agency of the United States.

attach an affidavit from his physician, hospital, or sana[illegible]

which, in your opinion, will disqualify [illegible] for [illegible]

REGISTRANT'S STATEMENT REGARDING CLASSIFICATION

INSTRUCTIONS. It is optional with registrant whether or not he completes this statement. [illegible] answer will not constitute a waiver of claim to deferred or other status. The local board is charged [illegible] determination of the classification of the registrant on the basis of the facts before it, which will be taken into consideration regardless of whether or not this statement is completed.

[illegible] the facts set forth in this questionnaire [illegible]

The registrant may write in the space below or attach to this page any additional statement which [illegible] to the attention of the local board in determining his classification.

REGISTRANT'S CERTIFICATE

INSTRUCTIONS. 1. Every registrant shall make the registrant's certificate. 2. If the registrant [illegible] read the questions and his answers thereto shall be read to him by the person who [illegible] question [illegible]. If the registrant is unable to sign his name he shall make his mark in the space [illegible] his statement in the presence of two persons who shall sign as witnesses.

[illegible] imprisonment for not more than five years or a fine of not more than $10,000, or both [illegible] and, except in time of war, is provided by law as a penalty for knowingly making or being a party to the making [illegible] false statement or certificate regarding or before upon a classification [illegible] Selective Service Act of 1948 as amended [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[fol. 111]

(Registrants Will Make No Entries on This Page)

Dates	Minutes of Actions by Local Board and Appeal Board	Vote Yes	Vote No
OCT 27 1953	1-C	3	0
11-30-53	Form 110 MAILED * ALSO NOTICE TO REGISTRANT EXPLAINING 1S-C classification		
MAR - 8			
1-18-55	4-D ltr rec'd- 2nd yr.		
JUL 26 1955			
JUL 28 1955	FORM 110 (NOTICE OF CLASSIFICATION) MAILED		
7-29-55	Form 111 mailed to Queens College		
10/5/56	FORM 109 received from Queens Coll. student accepted for 3rd yr.		
[illegible]	2S (C-3)	3	0
OCT [illegible] 1956	FORM [illegible] NOTICE OF CLASSIFICATION) MAILED		
10/11/56	FORM 111 mailed to Queens College		
Feb. [illegible] 1957	Mailed letter re 109.		
Mar.18,1957	Registrant mailed in advice from school re FORM 109		
[illegible]	2S. 111	4	0
APR 4 1957	FORM 110 (NOTICE OF CLASSIFICATION) MAILED		
Apr.11,1957	FORM 111 mailed to Queens College		
7-15-57	Letter rec'd from reg. stating that he is conscientiously opposed "to participate in any violent military conflict, or in activities made in preparation for such an undertaking". SSS Form 150 (Special form for conscientious objector) mailed to reg.		
7-29-57	SSS Form 150 (Special form for conscientious objector) with statements from registrant attached received.		
AUG 6 1957	1-C	3-0	
AUG [illegible] 1957	(NOTICE OF CLASSIFICATION) [illegible]		

11/27/53	Notified of classification
11-30-53	Form 110 MAILED * ALSO NOTICE TO REGISTRANT EXPLAINING 1S-C classification
MAR 8	
JUL 26 1955	
JUL 28 1955	FORM 110 (NOTICE OF CLASSIFICATION) MAILED
7-29-55	Form 111 mailed to Queens College
10/5/56	FORM 109 received from Queens Coll. student accepted for 3rd yr.
OCT 10 1956	FORM 110 (NOTICE OF CLASSIFICATION) MAILED
10/11/56	FORM 111 mailed to Queens College
Feb. 26 1957	Mailed letter re 109.
Mar.18,1957	Registrant mailed in advice from school re FORM 109
APR 4 1957	FORM 110 (NOTICE OF CLASSIFICATION) MAILED
Apr.11,1957	FORM 111 mailed to Queens College
7-15-57	Letter rec'd from reg. stating that he is conscientiously opposed to participate in any violent military conflict, or in activities made in preparation for such an undertaking". SSS Form 150 (Special form for conscientious objector) mailed to reg.
7-29-57	SSS Form 150 (Special form for conscientious objector) with statements from registrant attached received.
AUG 6 1957	
AUG 9 1957	NOTICE OF CLASSIFICATION)
AUG 13 1957	Form 111mld to Queens, College
5-20-58	Rec'd change of address
	FORM 111 MAILED

16-85744-1 U. S. GOVERNMENT PRINTING OFFICE

[fol. 112]

SELECTIVE SERVICE SYSTEM—CLASSIFICATION QUESTIONNAIRE
MINUTES OF ACTION—CONTINUED

Dates	Minutes of Actions by Local Board, Appeal Board, and on Appeal to the President
Sep 22, 1958	Form 66 mailed.
Oct. 20, 1958	Registrant requests appointment. Appointment for 10-21-58.
11-5-58	DD Form 62 (Cert.of Acceptability) mailed - ACCEPTED
~~11-5-58~~	~~Cover sheet to forwarded on appeal~~
11-14-58	SSS-NYCity Form 54 mailed to reg.for completion
11-21-58	Letter rec'd from Flushing Hosp.re reg's physical conditon
11-25-58	Completed Form 54 rec'd
12-3-58	Papers forwarded to Induction Station as Papers Only case with letter from Flushing Hospital
1-2-59	Rec'd papers from Station - ACCEPTABLE - DD Form 62 mailed to reg.
1-2-59	Cover sheet forwarded to Appeal Board
3-16-59	Appeal Board Panel No. 2(EDNY) has reviewed file of subject registrant and has tentatively determined that he should not be classified in Class I-C or in a class lower than Class I-O, and is accordingly transmitting herewith, pursuant to the provisions of Section 1626.25 S.S.R., registrant's cover sheet to the U.S. Attorney for the Eastern District of New York, for the purpose of securing an advisory recommendation from the Department of Justice on registrant's conscientious objector claim.
10-23-59	Cover sheet returned to Appeal Board by Dept. of Justice.
10-23-59	Appeal Board Panel No. 2 (EDNY) mailed letter to registrant enclosing copy of Department of Justice recommendation and advising him of

Oct. 20, 1958	Registrant requests appointment. Appointment for 10-21-58.
11-5-58	DD Form 62 (Cert. of Acceptability) mailed - ACCEPTED
~~11-5-58~~	~~Cover sheet to forwarded to appeal~~
11-14-58	SSS-NYCity Form 54 mailed to reg. for completion
11-21-58	Letter rec'd from Flushing Hosp. re reg's physical conditon
11-25-58	Completed Form 54 rec'd
12-3-58	Papers forwarded to Induction Station as Papers Only case with letter from Flushing Hospital
1-2-59	Rec'd papers from Station - ACCEPTABLE - DD Form 62 mailed to reg.
1-2-59	Cover sheet forwarded to Appeal Board
3-16-59	Appeal Board Panel No. 2(EDNY) has reviewed file of subject registrant and has tentatively determined that he should not be classified in Class I-O or in a class lower than Class I-O, and is accordingly transmitting herewith, pursuant to the provisions of Section 1626.25 S.S.R., registrant's cover sheet to the U.S. Attorney for the Eastern District of New York, for the purpose of securing an advisory recommendation from the Department of Justice on registrant's conscientious objector claim.
10-23-59	Cover sheet returned to Appeal Board by Dept. of Justice.
10-23-59	Appeal Board Panel No. 2 (EDNY) mailed letter to registrant enclosing copy of Department of Justice recommendation and advising him of 30 day period in which he may file reply.
11-3-59	Letter returned undelivered by Post Office. Remailed to correct address.
12-3-59	Registrant delivered by hand, to the Appeal Board, his reply to the Department of Justice recommendation.
5-23-60	Cover sheet rec'd from Appeal Board - 1-A Vote 4-0

To be used to provide additional pages of SSS Form No. 100 when more space is required for recording Minutes of Actions by Local Board, Appeal Board, and on Appeal to the President.

16—70041-1 U. S. GOVERNMENT PRINTING OFFICE

SSS Form No. 100-S (Revised 10-11-54)

[fol. 113]

Dates	Minutes of Actions by Local Board, Appeal Board, and/or Appeal to the President
5-24-60	Letter to registrant advising SSR do not provide for interview or appearance before Appeal Board - request contained in reg's letter dated 11-2-59
5-24-60	SSS Form 110 (Notice of classification) mailed to registrant 1A - Vote 4-0
6-6-60	Rec'd letter from registrant advising he is appealing Appeal Board's decisio to both the State & National Directors; also advises of his marriage
6-10-60	Rec'd request from NYC Director for cover sheet for transmittal to National Hdqtrs. for review - Postponement of issuance of induction order authorized Cover sheet forwarded
8/31/60	Cover sheet rec'd - Classified 1-A on August 25, 1960 by Presidential Appeal Board 3 0
8/31/60	SSS Form 110(Notice of Classification) mailed to registrant
10/21/60	Rec'd copy of letter mailed by Induction Officer to US Attorney- registrant refused to submit to induction on 10/20/60
10/26/60	Papers rec'd from Induction Station with letter of transmittal - registrant reported for Induction on 10/20/60 and refused to be inducted
10/26/60	Cover sheet forwarded to NYC Hqtrs in accordance with LBM 14 Par. 9
12-1-60	Cover sheet return from NYC Hqtrs
12/1/60	Entered on SSS Form 302 Reported on SSS Form 301

6-6-60	Rec'd letter from registrant advising he is appealing Appeal Board's decis to both the State & National Directors; also advise of his marriage
6-10-60	Rec'd request from NYC Director for cover sheet for transmittal to National Hdqtrs. for review - Postponement of issuance of induction order authorized Cover sheet forwarded
8/31/60	Cover sheet rec'd - Classified 1-A on August 25, 1960 by Presidential Appeal Board 3 0.
8/31/60	SSS Form 110(Notice of Classification) mailed to registrant
10/21/60	Rec'd copy of letter mailed by Induction Officer to US Attorney- registrant refused to submit to induction on 10/20/60
10/25/60	Papers rec'd from Induction Station with letter of transmittal - registrant reported for Induction on 10/20/60 and refused to be inducted
10/25/60	Cover sheet forwarded to NYC Hqtrs in accordance with IBM 14 Par. 9
[illegible]	[illegible]
12/1/60	Entered on SSS Form 302 Reported on SSS Form 301

[fol. 115] GOVERNMENT'S EXHIBIT 11

170-36 Pidgeon [illegible]
Flushing 65, New York
July 12, 1957

Selective Service System
Local Board No. 66
39-01 Main Street
Flushing, New York

Gentlemen:

As the result of the resolution of a number of problems of conscience with which I have been preoccupied for the past months, I am bound to declare myself unwilling to participate in any violent military conflict, or in activities made in preparation for such an undertaking.

My decision arises from what I believe to be considerations of validity from the standpoint of the welfare of humanity and the preservation of the democratic values which we in the United States are struggling to maintain. I have concluded that war, from the practical standpoint, is futile and self-defeating, and that from the more important moral standpoint, it is unethical.

The contention that war is futile needs little explanation, I suspect, since it is quite generally acknowledged. The ethical considerations may not be so obvious, but I have chosen not to undertake to explain them in this preliminary letter as the argument is somewhat lengthy and involved.

I should be happy, any time at your convenience, to discuss my position with you and to submit, either in person or in writing, a clarification of my deliberations. Please advise me as to your wishes.

Thank you for your attention.

Respectfully

Selective Service System
Local Board No. 65
39-01 Main Street
Flushing, New York

Gentlemen:

As the result of the resolution of a number of problems of conscience with which I have been preoccupied for the past months, I am bound to declare myself unwilling to participate in any violent military conflict, or in activities made in preparation for such an undertaking.

My decision arises from what I believe to be considerations of validity from the standpoint of the welfare of humanity and the preservation of the democratic values which we in the United States are struggling to maintain. I have concluded that war, from the practical standpoint, is futile and self-defeating, and that from the more important moral standpoint, it is unethical.

The contention that war is futile needs little explanation, I suspect, since it is quite generally acknowledged. The ethical considerations may not be so obvious, but I have chosen not to undertake to explain them in this preliminary letter as the argument is somewhat lengthy and involved.

I should be happy, any time at your convenience, to discuss my position with you and to submit, either in person or in writing, a clarification of my considerations. Please advise me as to your wishes.

Thank you for your attention.

Respectfully,

Daniel A. Seeger

Daniel A. Seeger
50-66-35-620

[fol. 116]

Daniel A. Berger (59-66-35-1Bc)
1[illegible] Pidgeon Meadow Road
Flushing, New York

Selective Service System
Local Board No. 66
31-01 Main Street
Flushing, New York

[fol. 118]

SELECTIVE SERVICE SYSTEM
LOCAL BOARD NO. 66
JUL 29 1957
[illegible] Main Street
Flushing, N.Y.

GOVERNMENT'S EXHIBIT 13

SELECTIVE SERVICE SYSTEM

SPECIAL FORM FOR CONSCIENTIOUS OBJECTOR

Selective Service No. 50 66 35 620

Date of mailing July 19,1957
Date received back at local board

[illegible]
Local Board No. 66
[illegible]
Flushing, N.Y.
(LOCAL BOARD STAMP)

Name Seeger, Daniel Andrew

Address 170-36 Pidgeon Meadow Road,

Flushing, Queens, New York

This form must be returned on or before JULY 29,1957

INSTRUCTIONS

A registrant who claims to be a conscientious objector shall offer information in substantiation of his claim on this special form, which when filed shall become a part of his Classification Questionnaire, SSS Form No. 100.

The questions in Series II through V in this form are intended to obtain evidence of the genuineness of the claim made in Series I, and the answers given by the registrant shall be for the information of only those officials duly authorized under the regulations to examine them.

In the case of any registrant who claims to be a conscientious objector, the local board shall proceed in the prescribed manner to determine his proper classification. The procedure for appeal from a decision of the local board on a claim of conscientious objection is provided for in the Selective Service Regulations.

Failure by the registrant to file this special form on or before the date indicated above may be regarded as a waiver by the registrant of his claim as a conscientious objector; *Provided*, that the local board, in its discretion, and for good cause shown by the registrant, may grant a reasonable extension of time for filing this special form.

Series I.—CLAIM FOR EXEMPTION

INSTRUCTIONS.—The registrant must sign his name to either statement A or statement B in this series but not to both of them. The registrant should strike out the statement in this series which he does not sign.

(A) ~~I am, by reason of my religious training and belief, conscientiously opposed to participation in war in any form and claim exemption from combatant training and service in the Armed Forces.~~

(Signature of registrant)

(B) I am, by reason of my religious ~~training and~~ belief, conscientiously opposed to participation in war in any form and I am conscientiously opposed to participation in noncombatant training and service in the Armed Forces. I, therefore, claim exemption from both combatant and noncombatant training and service in the Armed Forces.

Daniel A. Seeger

Under the provisions of section 6 (j) of the Universal Military Training and Service Act, as amended, any person who claims exemption from combatant training and service in the Armed Forces of the United States because he is, by reason of religious training and belief, conscientiously opposed to participation in war in any form and such claim is sustained by the local board, shall, if he is inducted into the Armed Forces, be assigned to noncombatant service as defined by the President, or shall, if found to be conscientiously opposed to participation in such noncombatant service, in lieu of induction, be ordered by his local board, subject to regulations prescribed by the President, to perform for a period of twenty-four consecutive months such civilian work contributing to the maintenance of the national health, safety, or interest as the local board deems appropriate, and any such person who fails or neglects to obey such order of the local board shall be subject to imprisonment for not more than five years or a fine of not more than $10,000, or to both such fine and imprisonment.

Series II.—RELIGIOUS TRAINING AND BELIEFS

89-01 [illegible]

(LOCAL BOARD STAMP)

Address 170-36 Pidgeon Meadow Road,

Flushing, Queens, New York

This form must be returned on or before JULY 29,1957

INSTRUCTIONS

A registrant who claims to be a conscientious objector shall offer information in substantiation of his claim on this special form, which when filed shall become a part of his Classification Questionnaire, SSS Form, No. 100.

The questions in Series II through V in this form are intended to obtain evidence of the genuineness of the claim made in Series I, and the answers given by the registrant shall be for the information of only those officials duly authorized under the regulations to examine them.

In the case of any registrant who claims to be a conscientious objector, the local board shall proceed in the prescribed manner to determine his proper classification. The procedure for appeal from a decision of the local board on a claim of conscientious objection is provided for in the Selective Service Regulations.

Failure by the registrant to file this special form on or before the date indicated above may be regarded as a waiver by the registrant of his claim as a conscientious objector; *Provided*, that the local board, in its discretion, and for good cause shown by the registrant, may grant a reasonable extension of time for filing this special form.

Series I. CLAIM FOR EXEMPTION

INSTRUCTIONS.—The registrant must sign his name to either statement A or statement B in this series but not to both of them. The registrant should strike out the statement in this series which he does not sign.

(A) ~~I am, by reason of my religious training and belief, conscientiously opposed to participation in war in any form. I am not claiming exemption from combatant training and service in the Armed Forces.~~

(B) I am, by reason of my religious ~~training and~~ belief, conscientiously opposed to participation in war in any form and I am conscientiously opposed to participation in noncombatant training and service in the Armed Forces. I, therefore, claim exemption from both combatant and noncombatant training and service in the Armed Forces.

Daniel A. Seeger

Under the provisions of section 6 (j) of the Universal Military Training and Service Act, as amended, any person who claims exemption from combatant training and service in the Armed Forces of the United States because he is, by reason of religious training and belief, conscientiously opposed to participation in war in any form and such claim is sustained by the local board, shall, if he is inducted into the Armed Forces, be assigned to noncombatant service as defined by the President, or shall, if found to be conscientiously opposed to participation in such noncombatant service, in lieu of induction, be ordered by his local board, subject to regulations prescribed by the President, to perform for a period of twenty-four consecutive months such civilian work contributing to the maintenance of the national health, safety, or interest as the local board deems appropriate, and any such person who fails or neglects to obey such order of the local board shall be subject to imprisonment for not more than five years or a fine of not more than $10,000, or to both such fine and imprisonment.

Series II.—RELIGIOUS TRAINING AND BELIEFS

INSTRUCTIONS.—Every question in this series must be fully answered. If more space is necessary, attach extra sheets of paper to this page.

1. Do you believe in a Supreme Being? Yes ☐ No ☐ ☑ Please see attached sheet.

2. Describe the nature of your belief which is the basis of your claim made in Series I above, and state whether or not your belief in a Supreme Being involves duties which to you are superior to those arising from any human relation.

Please see attached sheet.

[fol. 119]

3. Indicate from whom or from what source you received the training and acquired the belief which is the basis of your present political [illegible]

Please see attached sheet.

4. Give the name and present address of the individual upon whom you rely most for religious guidance.

Please see attached sheet.

5. To [illegible] what extent, if any, do you believe in the use of force?

Please see attached sheet.

6. [illegible] actions and behavior in your life which in your opinion are not consistent [illegible] and [illegible]

7. [illegible] written or oral, to the views herein expressed as to [illegible] for your views made in Series [illegible]

I have never had the opportunity to express my views publicly to large numbers of people. However, My those of friends and acquaintances with whom I am accustomed to [illegible] discussing my problems are aware of my position.

Series III.—GENERAL BACKGROUND

INSTRUCTIONS.—Every question in this series must be fully answered. If more space is necessary, attach extra sheets of paper to this page.

8. [illegible] and address of each school and college with which you have been affiliated, together with the dates of your attendance; and [illegible] the type of [illegible] church, military, etc.)

			Dates Attended	
			From	To
P.S. [illegible] School	Elementary	Light Street, Flushing	19 42	19 49
[illegible] School	Secondary	Whitestone, New York	19 49	19 53
[illegible]	College	New York 3, New York	19 53	19 54
[illegible] College	[illegible]	Flushing, New York	19 54	19 --

9. [illegible] for the most part [illegible] expenses of [illegible] as a student in school or college, in-[illegible] compensation or not, giving the facts indicated below with regard to [illegible]

6. Give the name and present address of the individual upon whom you rely most for religious guidance.

Rev. [illegible] Post.

[illegible]

7. Have you ever given public expression, written or oral, to the views herein expressed as the basis for your claim made in Series I above? If so, specify and state where.

I have never had the opportunity to express my views publicly to large numbers of people. However, my close friends and associates with whom I am associated in discussing my problems are aware of my position.

Series III.—GENERAL BACKGROUND

INSTRUCTIONS.—Every question in this series must be fully answered. If more space is necessary, attach extra sheets of paper to this page.

1. Give the name and location of each school and college which you have attended, together with the dates of your attendance; and indicate the type of school (church, military, commercial, etc.).

Name of School	Type of School	Location of School	Dates Attended From	Dates Attended To
St. Kevin's School	Elementary	195th Street, Flushing	19 42	19 49
Bayside High School	Secondary	Bayside, New York	19 49	19 53
Cooper Union	College	New York 3, New York	19 53	19 54
Queens College	College	Flushing, New York	19 54	19 --

2. Give a chronological list of all occupations, positions, jobs, or types of work, other than as a student in school or college, in which you have at any time been engaged, whether for monetary compensation or not, giving the facts indicated below with regard to each such job held or type of work in which engaged.

Type of Work	Name of Employer	Address of Employer	Period Worked From—	Period Worked To
Clerical	Mutual Life Assurance Soc.	Seventh Avenue, N.Y.	19 53	19 53
Clerical	Lever Bros. Co.	Park Avenue	19 54	19 54
Caretaker	Seawanhaka Corinthian Yacht Club	Summers	19 56	19 57
			19	19
			19	19
			19	19

[fol. 120]

3. Give [illegible] last place of residence where you [illegible]

Name [illegible] Post Office Address [illegible]

have live[illegible] at Robert Andrews/Grove Ln

4. Give the name and address of your parents and indicate whether [illegible]

Mr. Andrew Beaver

Dora Ly Beaver (Mrs. Andrew Beaver)

5 (a) State the religious denomination or sect of your father [illegible]

(b) State the religious denomination or sect of your [illegible]

Series IV.—PARTICIPATION IN ORGANIZATIONS

INSTRUCTIONS.—Questions 1, 2, and 3 in this series must be fully answered. If more space is necessary, attach extra sheets of paper to this page.

1. Have you ever been a [illegible] and give reasons why you became a member.

No.

2. Are you a member of a religious sect or organization? No.

(a) through [illegible]

(a) State the name of the sect, and the name and location [illegible]

(b) When, where, and how did you become a member of [illegible]

(c) State the name and location of the church [illegible]

(d) Give the name, title, and present address of the pastor or leader of [illegible]

(e) Describe carefully the creed or official statement of [illegible]

Series IV.—PARTICIPATION IN ORGANIZATIONS

INSTRUCTIONS.—Questions 1, 2, and 3 in this series must be fully answered. If more space is necessary, attach extra sheets of paper to this page.

1. Have you ever been a member of any fraternal organization? No. If so, list the names and dates of membership, and give reasons why you became a member.

No.

2. Are you a member of a religious sect or organization? No. If your answer to question 2 is "Yes," answer questions (*a*) through (*f*):

(*a*) State the name of the sect, and the name and location of the church, temple, or head if known to you.

(*b*) When, where, and how did you become a member of such [illegible]?

(*c*) State the name and location of the church, [illegible] you attended.

(*d*) Give the name, title, and present address of the [illegible] congregation, or body.

(*e*) Describe carefully the creed or official statements of such [illegible] organization in relation to participation in war.

3. Describe your relationships with and activities in all organizations with which you are or have been affiliated, fraternal, social, political, or labor organizations.

Queens College Choral Society; member of Bas. Section
Queens College newspaper CROWN; editor-in-chief
Student Court, justice
Member of discussion group "Roundtable", etc.

[fol. 121]

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Series V.—REFERENCES

* Give here the names and other information indicated concerning persons who could supply information as to the sincerity of your professed convictions against participation in war.

NAME	FULL ADDRESS	OCCUPATION OR POSITION	RELATIONSHIP TO YOU
Dr. K. Bhaskara Rao	World University Service West 40th Street New York, New York	lecturer and former instructor in Oriental Studies at University of Iowa.	acquaintance

REGISTRANT'S CERTIFICATE

INSTRUCTIONS.—1. Every registrant claiming to be a conscientious objector shall make this certificate. 2. If the registrant cannot read, the questions and his answers thereto shall be read to him by the person who assists him in completing this questionnaire. 3. If the registrant is unable to sign his name he shall make his mark in the space provided for his signature in the presence of two persons who shall sign as witnesses.

NOTICE.—Imprisonment for not more than five years or a fine of not more than $10,000, or both such fine and imprisonment, is provided by law as a penalty for knowingly making or being a party to the making of any false statement or certificate regarding or bearing upon a classification. (Universal Military Training and Service Act, as amended).

I, Daniel H. Seeger, certify that I am the registrant named and described in the foregoing statements in this questionnaire; that I have read (or have had read to me) the statements made by and about me, and that each and every such statement is true and complete to the best of my knowledge, information, and belief. The statements made by me in the foregoing are not (are, are not) in my own handwriting.

Registrant sign here ✍ Daniel H. Seeger
(Signature or mark of registrant)

(Signature of witness to mark of registrant)

(Signature of witness to mark of registrant)

If another person has assisted the registrant in completing this questionnaire, such person shall sign the following statement:

I have assisted the registrant herein named in preparation of this questionnaire because

(For example - registrant unable to read and write English, etc.)

(Signature of person who has assisted)

(Occupation of person who has assisted)

(Address of person who has assisted)

* I would like to request permission to submit

New York, New York

Instructor
in Oriental Studies
at University of Iowa.

REGISTRANT'S CERTIFICATE

INSTRUCTIONS.—1. Every registrant claiming to be a conscientious objector shall make this certificate. 2. If the registrant cannot read, the questions and his answers thereto shall be read to him by the person who assists him in completing this questionnaire. 3. If the registrant is unable to sign his name he shall make his mark in the space provided for his signature in the presence of two persons who shall sign as witnesses.

NOTICE.—Imprisonment for not more than five years or a fine of not more than $10,000, or both such fine and imprisonment, is provided by law as a penalty for knowingly making or being a party to the making of any false statement or certificate regarding or bearing upon a classification. (Universal Military Training and Service Act, as amended).

I, Daniel H. Seeger, certify that I am the registrant named and described in the foregoing statements in this questionnaire; that I have read (or have had read to me) the statements made by and about me, and that each and every such statement is true and complete to the best of my knowledge, information, and belief. The statements made by me in the foregoing are not (are, are not) in my own handwriting.

Registrant sign here ☞ Daniel H. Seeger
(Signature or mark of registrant)

(Signature of witness to mark of registrant)

(Signature of witness to mark of registrant)

If another person has assisted the registrant in completing this questionnaire, such person shall sign the following statement:

I have assisted the registrant herein named in preparation of this questionnaire because

(For example—registrant unable to read and write English, etc.)

(Signature of person who has assisted)

(Occupation of person who has assisted)

(Address of person who has assisted)

* I would like to request permission to submit additional references at a future time. I have been unable to contact a number of people to obtain their consent. College is closed and the faculty members I am concerned with are apparently out of town.

Daniel Seeger

U. S. GOVERNMENT PRINTING OFFICE 16—58231-2

[fol. 122]

Daniel Andrew Seeger: 50-60-35-520

JAMES II. Question 1.

Of course, the existence of God cannot be proven or disproven, and the issue of it cannot be determined. I prefer to [illegible] question open rather than answer "God" or "no".

However, skepticism or disbelief in the existence of God does not necessarily [illegible] what ever. The martyrdom of Socrates is [illegible] that irony and skepticism may accompany a [illegible] faith. But persons as late, and [illegible] evolved comprehensive ethical systems [illegible] and moral integrity without belief in God, [illegible] remotest sense. Others, such as Epicurus, [illegible] and John Dewey, are, I believe, frankly atheists.

Act [illegible] taken through fear of [illegible] eternal reward is not moral conduct but [illegible] Plotinus said, "If a man seeks the good life for [illegible] outside itself, he loves the good life [illegible] feel more respect for the nobler spirit [illegible] quity, i.e., neither [illegible] virtue or their own names, and a well [illegible] purely ethical [illegible].

[illegible] moral order [illegible], intellectual [illegible] [illegible] [illegible]

SERIES II. Question 1

[fol. 123]

[fol. 124]

[illegible] a practical necessity. [illegible] terrorism [illegible] and a more [illegible]

[illegible] Organization for modern warfare demands [illegible] changes in the values of our society. [illegible] cultural and spiritual [illegible] of a society [illegible] ware modern mass warfare is incompatible [illegible] of a society that [illegible]

For example, in training soldiers [illegible] is placed on finding and developing "natural-born" leaders who can command complete devotion [illegible] This effort to take advantage of [illegible] create unquestioning loyalty to a leader is not likely to strengthen the spiritual roots of democracy, which requires exactly the opposite attitudes [illegible] development.

This would be disastrous [illegible] limited to the military, but [illegible] in our whole culture. [illegible] of military establishments alone, [illegible] by every citizen and demands the highest possible [illegible] of national unity. Individual rights must be subordinated [illegible]

a cause, or because they have no other choice.

[illegible] ...ary, the "drive" [illegible] ...ward [illegible] ...are [illegible] ...ere [illegible] ...ion [illegible] ...ter- [illegible] ...rism [illegible] ...ol, [illegible] ...ary, [illegible] ...and [illegible] ...ill [illegible].

[illegible] ...ace [illegible] ...ance. When freedom [illegible] ...ity [illegible] ...War [illegible] ...demands [illegible] ...tional [illegible] ...ties [illegible] ...ficed. [illegible] ...ally considered [illegible] ...istics [illegible] ...ism: spying [illegible] ...ow citizens; anonymous [illegible]; restrictions [illegible] ...dom of movement, speech, [illegible]; persecution [illegible] ...beliefs [illegible] ...; the reversal [illegible] ...traditional assumption [illegible] ...cent until proof [illegible].

Organization [illegible] ...modern warfare demands [illegible] ...changes in the values of our society. [illegible] ...organization, cultural and spiritual [illegible] ...of a modern [illegible] ...ware modern mass warfare is incompatible [illegible] ...of a society that [illegible] ...democratic [illegible].

For example, [illegible] ...training soldiers [illegible] ...is placed on finding and developing "natural-born" [illegible] ...who can command complete [illegible] ...and [illegible] ...obedience. This effort to take advantage of [illegible] ...to create unquestioning loyalty to a leader is not likely to strengthen the spiritual roots of democracy, which requires exactly the opposite attitudes for its healthy development.

This would be disasterous enough if it were limited to the military, but the same forces are at work in our whole culture. Modern war is no longer the problem of military establishments alone, but it must now be borne by every citizen and demands the highest possible degree of national unity. Individual rights must be submerged in the interests of national security, and we have already had widespread and irrational hysteria abroad in the land. Such attitudes strike at the very heart of democracy.

Sincerely [illegible]
Lewis [illegible]

Jan. 2-1957

[illegible]-01 [illegible] Street
Flushing, N. Y.

[illegible] are inappropriate to their ends, [illegible] use such means would be to monopolize [illegible] ends. [illegible] democracy for the illusory security of [illegible]. Military power is as corruptible [illegible] as it is pitiless to its victims.

[illegible] I cannot participate in anti-[illegible] of freedom and humanity. Experience with the past indicates that our armament policy will lead to war, and war, with its indiscriminate crushing of human values, cannot preserve moral values. We cannot preserve freedom by denying freedom; the end does not justify the means. To resort to immoral means is not to preserve or vindicate moral values, but only to become collaborators in the destruction of moral life among men.

In the event that some future military catastrophe should overtake the world, I should be willing and anxious to devote my small capacities for work among the civilian populations of devastated areas, so long as I am reasonably certain that my participation is not simply freeing someone else for activities I would not conduct myself.

"A fearful weariness has come into life," wrote [illegible] Wells in [illegible] at the End of Its Tether. Shaw, in The Vice of Our Past, continues: "Perhaps the most [illegible] thing about life today is that it does not seem [illegible] much. We have come to crises and horror, as to novelty; we should find tomorrow in which there was no threat of further frightfulness." Yet we must [illegible] for the "tomorrow." My above discussion indicates no way out of the impasse in which twentieth-century culture finds itself. A possible alternative to violence is offered by the Quakers in their pamphlet Speak Truth to Power, from which much of my thought is derived. Although I disagree with them on several basic philosophical points, I endorse their program as the best I have seen advanced. The possibility of peace is preferable to eternal disaster.

I realize that to the hard-headed, practical, "man-of-the-world" my contentions sound like an unhealthy mixture of youthful idealism and an insufficient dose of philosophy, with a result that has little relation to reality. Impossible and impractical perhaps, but if it were not for the handful of anonymous idealists who constantly strove for the impossible throughout history, the possible would never have been achieved.

[illegible] the

[illegible] the cause of freedom by humanity. Experience with the past indicates that our present policy will lead to war, and war, with its indiscriminate crushing of human values, cannot preserve moral values. We cannot preserve democracy by destroying freedom; the end does not justify the means. We purport to [illegible] is not to preserve or promote democratic values, but only to become collaborators in the [illegible] of all of the human race.

I believe that in case of a military catastrophe which overtakes the free world, I should be willing, however anxious to avoid any participation in the slaughter of innocent people, to perform services of national importance in the civilian population of the United States, so long as I can reasonably certify that my participation is not simply to release someone else for military service. I would not conduct myself.

"A beautiful phrase has come into life," wrote [illegible] in [illegible] of Ivan the Terrible. Shaler, in [illegible] of Man, continues: "Perhaps the most [illegible] about life today is that it does not seem [illegible] with hope. We have come to despise and fear, or, as the novelist, we should like to conjure a morrow in which there was [illegible] of human life." Yet we must [illegible] for the "near tomorrow." My above discussion indicates no way out of the impasse in which the twentieth century culture finds itself. A possible alternative to violence is offered by the Quakers in their pamphlet Speak Truth to Power, from which much of my thought is derived. Although I disagree with them on several basic philosophical points, I should like to say that I have been deeply impressed. The possibility of peace is preferable to [illegible] alternative.

I realize that to the [illegible]-minded, practical, "man-of-the-world" my contentions sound like an unhealthy mixture of youthful idealism and an insufficient dose of philosophy, with a result that has little relation to reality. Impossible and impractical perhaps, but if it were not for the handful of anonymous idealists who constantly strove for the impossible throughout history, the possible would never have been achieved.

Certainly the solution to our difficulty is not easy, for the effort to meet the challenge of establishing a world order on the principles of equity and justice will prove to be the most extraordinary adventure of the human spirit. Let us hope that the challenge will be met, and that we will [illegible] of fanaticism or monstrosity, like the dinosaurs before us.

Selective Service
Local Board No. 23

JUL 29 1957

39-01 Main Street
Flushing, N. Y.

[fol. 126]

SERIES II. Question 3

Readings over the past ten months from:
Floyd, William: War Resistance
Gandhi, Mohandas: Indian Home Rule
Gandhi, Mohandas: Satyagraha
Jones, E. Stanley: Mahatma Gandhi
Kaplan, Alexandre: Gandhi et Tolstoi: Les sources d'une filiation spirituelle
Kvitko, David: A Philosphic Study of Tolstoi
Russell, Bertrand: Dare We Look Ahead?
Russell, Bertrand: Justice in Wartime
Russell, Bertrand: Which Way to Peace
American Friends Service Committee: Speak Truth to Power
etc,

and my own deductions from information and concepts set forth in a large number of other non-pacifist writings, for example Herbert J. Muller's The Uses of the Past; Harrison Brown's The Challenge of Man's Future; Erich Fromm's Escape From Freedom , and others.

Series II. Question 4

I rely on no particular person for religious guidance. I resolve spiritual and ethical problems by reading relavent essays or books, by discussion and debate with colleagues, and ultimately, by following the dictates of my conscience.

SERIES II. Question 5

Tolstoi, basing his conclusion on a strict interpretation of the Sermon on the Mount, can come to the conclusion that conduct is not judged by its consequences. He considers action to be inherently right or wrong. Thus he writes: "If a man is a Christian, and so recognizes God and sees the meaning of life in the fulfillment of His will, no matter what terrible robber may attack any innocent child he has no cause to depart from the law given him by God and do to the robber what the robber wants to do to the child." ~~XXXX~~ To Tolstoi no use of force is ever right.

However, if the way of Jesus is sublime, it is not necessarily the only good way, or under all circumstances the best way. Perhaps today the world needs reasonable ess more than it needs fervor, and wisdom rather than holiness. I there ore tend to favor Bertrand Russell's broader outlook: "No one who holds that human conduct ought to be such as to promote certain ends -- no matter what ends may be selected -- will expect any absolute hard and fast

Kvitko, David: A Philosphic Study of Tolstoi
Russell, Bertrand: Dare We Look Ahead?
Russell, Bertrand: Justice in Wartime
Russell, Bertrand: Which Way to Peace
American Friends Service Committee: Speak Truth to Power
etc,

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Series II. Question 4

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SERIES II. Question 5

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Selective Service System
LOCAL BOARD NO. 66
JUL 29 1957
39-01 Main Street
Flushing, N. Y.

[fol. 127] GOVERNMENT'S EXHIBIT 19

(Local Board Stamp)

INTERVIEW
SUMMARY OF ~~HEARING~~

At a interview held on Oct. 21, 1958 before a
(Date)

Member or Members of this Local Board, the registrant

Daniel A. Seeger, 50 66 35 620 submitted
(Name) (SS No.)

the following new information.

I would like to request the board to reconsider my Form 150 or to grant me permission to appeal my 1a classification.

Upper classman in Queens' College in physics. Intends to follow teaching or go into industry. Was reared in Roman Catholic Church but is not now attached. Age 23 No organizational affiliations.

Action: 1a continued

SUMMARY OF ~~HEARING~~ interview

At a ~~hearing~~ held on Oct. 21, 1958 before a
(Date)

Member or Members of this Local Board, the registrant

Daniel A. Seeger, 50 66 35 620 submitted
(Name) (SS No.)

the following new information.

I would like to request the board to reconsider my Form 150 or to grant me permission to appeal my 1a classification.

[redacted]

Upper classman in Queens' College in physics. Intends to follow teaching or go into industry. Was reared in Roman Catholic Church but is not now attached. Age 23 No organizational affiliations.

Action: 1a continued

[redacted]

[Copy illegible.]

Member(s) Signature

SSS - N. Y. City
Form No. 3

[fol. 128] GOVERNMENT'S EXHIBIT 20

50-66-35-620

Seeger, Daniel A.
328 West 89 St.,
New York, 24, New York

To the Appeal Board:

Registrant appeals from 1A classification voted August 26,1958 and continued October 21, 1958 after appearance before Local Board.

The basis for the appeal is that the registrant believes himself to be a conscientious objector, by virtue of his aversion to war in any aspect, including civilian aid or medical assistance to our Armed Forces.

Respectfully submitted,

Harry Herschman, A.G.S.A.

October 21,1958

[fol. 129]

GOVERNMENT'S EXHIBIT 21

328 West 89th Street
New York City 24, New York
Monday, October 27, 1958

Selective Service System
LOCAL BOARD NO. 66
OCT 29 1958
39-01 Main Street
Flushing, N. Y.

United States Selective Service System
Local Board #66
39-01 Main Street
Flushing, New York

Gentlemen:

This letter is to advise you of my desire to appeal the 1-A classification which the board assigned to me at its meeting last Tuesday evening, October 21st.

Thank you for your attention.

Yours truly,

Daniel A. Seeger

Daniel Andrew Seeger
(50 66 35 620)

[fol. 130]

GOVERNMENT'S EXHIBIT 24

New York City Selective Service System

(Local Board Stamp)

QUESTIONS TO BE ANSWERED BY A REGISTRANT CLAIMING TO BE A CONSCIENTIOUS OBJECTOR AND/OR MINISTER OF RELIGION

Date November 14, 1958

SEEGER, DANIEL ANDREW — 50-66-35-620

Registrant's Name — Selective Service No.

1. How does registrant earn a living?

2. Describe secular employment:

   a. Type of work

   b. Hours

   c. Wages

   d. Name of Employer

3. What was registrant's income from secular employment during the past 12 months?

4. Does registrant preach and teach the principles of religion?

   a. If so, how many hours a month?

   b. How many members are there in his Congregation?

   c. How many other ministers are there in his Congregation?

5. Give title, or titles, if any, registrant holds in his Congregation and submit certification of such assignment.

   a. Is registrant a Pioneer? If so, submit certification from Watchtower Bible and Tract Society

   b. How many other Pioneers in his Congregation?

CONSCIENTIOUS OBJECTOR AND/OR MINISTER OF RELIGION

November 14, 1958

SEEBER, DANIEL ANDREW — 50-56-35-630

Registrant's Name — Local Board Number

1. How does registrant earn a living?

2. Describe secular employment:

   a. Type of work — c. Wages

   b. Hours — d. Name of Employer

3. What was registrant's income from secular employment during the past 12 months?

4. Does registrant preach and teach the principles of religion?

   a. If so, how many hours a month?

   b. How many members are there in his Congregation?

   c. How many other ministers are there in his Congregation?

5. Give title, or titles, if any, registrant holds in his Congregation and submit certification of such assignment.

   a. Is registrant a Pioneer? — If so, submit certification from Watchtower Bible and Tract Society

   b. How many other Pioneers in his Congregation?

   c. List number of hours reported to Watchtower Bible and Tract Society as spent in Pioneer Ministerial duties each month for past three months.

(over)

[fol. 131]

6. List all ministerial duties performed over past month and number of hours to each duty.

   a. How much of registrant's time over the past month was devoted to selling or distributing literature?

7. With regard to conscientious objection, state under what circumstances registrant believes in the use of force.

8. Is registrant's conscientious objection based upon the views of the Watchtower Bible and Tract Society as expressed in the pamphlet "Neutrality" and the article "Why Jehovah's Witnesses are not Pacifists"?

9. Will registrant participate in any war that he understands is authorized by Jehovah?

10. Does the registrant believe in the use of force in defense of:

himself?	his religion?
his family?	his brethren?
his home?	his Government?
his Country?	

11. Is registrant's conscientious objection based primarily upon his desire to preach or upon his unwillingness to use force?

selling or distributing literature?

8. Is registrant [illegible]
tower Bible and Tract Society [illegible]
and the article "Why Jehovah's Witnesses [illegible]

9. Will registrant participate in any way that he understands [illegible]
Jehovah?

10. Does the registrant believe in the use of force in defense of:

himself? his religion?

his family? his brethren?

his home? his Government?

his Country?

11. Is registrant's conscientious objection based primarily upon his desire to preach or upon his unwillingness to use force?

SSS-N.Y.City
Form No. 54
(Revised May 1957)

[fol. 132]

Daniel Andre. [illegible]

Answers to questionnaire [illegible]

1. How does registrant earn living?
As a bank clerk.

2. Describe secular employment:
a. Type of work — clerical , with some simple bookkeeping.
b. Hours — 5 p.m. to 1 a.m. Monday through Friday.
c. Wages — $60.00 per week.
d. Name of Employer —
The Marine Midland Trust Company of New York
120 Broadway, New York City

3. What was registrant's income from secular employment during the past twelve months?
Approximately $2630.00

4. Irrelevant
5. "
6. "

7. With regard to conscientious objection, state under what circumstances registrant believes in the use of force.

This registrant does not subscribe to an unqualified rejection of force. The word force has many meanings. In answering a question on the use of "force" it is necessary to analyze the various kinds of force and examine the circumstances under which each might be used.

I think that the following distinctions are of interest:

1. Is the force violent or non-violent?
2. Is it active or passive?
3. Is it within or without a social contract?
4. Is it creative or destructive?
5. Is it restraining or vengeful?
6. Is it dangereus to bystanders or other innocent persons?

The registrant believes the following statement by Adous Huxley is a good summary of his own attitude on the use of force in society, especially in the case of armies and police organizations:

"The force which armies are empowered to use is not limited. Their function is not to restrain the guilty; it is to destroy all things and people within their range. When the police wish to arrest a criminal, they do not burn up a town in which he is living and kill and torture all its inhabitants. But

7. With regard to conscientious objection, state under what circumstances registrant believes in the use of force.

This registrant does not subscribe to an unqualified rejection of force. The word force has many meanings. In answering a question on the use of "force" it is necessary to analyze the various kinds of force and examine the circumstances under which each might be used.

I think that the following distinctions are of interest:

1. Is the force violent or non-violent?
2. Is it active or passive?
3. Is it within or without a social contract?
4. Is it creative or destructive?
5. Is it restraining or vengeful?
6. Is it dangerous to bystanders or other innocent persons?

The registrant believes the following statement by Adous Huxley is a good summary of his own attitude on the use of force in society, especially in the case of armies and police organizations:

> "The force which armies are empowered to use is not limited. Their function is not to restrain the guilty; it is to destroy all things and people within their range. When the police wish to arrest a criminal, they do not burn up a town in which he is living and kill and torture all its inhabitants. But this is precisely what the army does, particularly an army using modern weapons.
>
> "States arrogate to themselves not only the right to judge other states, but also, by means of their armies, to punish them. The principle is wholly repugnant to law; moreover, the process of punishing a guilty nation entails the destruction of countless innocent individuals. An army with tanks and bombing squadrons is not and cannot be a police force. Nor can its essentially evil and destructive functions be moralized by calling it a League army, an

instrument of collective security, etc. Police operate with the universal consent of the community which employs them..."

Questions about force on the individual level are difficult to answer. What if we are attacked by thieves? What of the little girl who is molested? (The registrant is indebted to material published by the Central Committee for Conscientious Objectors in answering the above.)

In deciding these commonly discussed problems, the registrant believes that the same general principles that are outlined above apply. Thus, if it were in our power, we would restrain the attacker and the thief. We would not try to stop them, however, if doing so meant killing or injuring other innocent people. One can know and reject the folly and immorality of war without unqualifiedly rejecting all forms of force or restraint in all circumstances.

It is important to realize that all philosophies or religions, however sincere, must come to grips with questions which cannot be answered by pat phrases. Experience and reality to not fit themselves neatly into philosopher's categories, and the conscience must always search, sometimes painfully, for the answers to the moral questions which life presents. We cannot live by isolating ourselves from the social fabric in which we find ourselves. We can only strive for the good by a constant series of adjustments consonant with the demands of conscience and those of reality. This is called "drawing the line." Thus an orthodox Jewish person must in some way reconcile traditional orthodoxy with the demands of modern life. Similarly, many Christians would, in good conscience, draw a line between their religion's demands for brotherly love and samaritan-like assistance to one's neighbor and their own business activities, maintaining that in economic activities it is just to compete freely and vigorously with one's neighbor, attending to one's own prosperity at a neighbor's expense.

I would like to conclude by quoting my own answer to question five on form SSS150:

"Tolstoi, basing his conclusion on a strict interpretation of the Sermon onn the Mount, can come to the conclusion that conduct is not judged by its consequences. He considers action to be inherently right or wrong. Thus he writes: 'If a man is a Christian and sees the meaning of his life in the fulfillment of His will, no matter what terrible robber may attack any innocent child, he has no RIGHT cause to depart from the law given him by God and do to the robber what the robber wants to do to the child." To Tolstoi, no use of force is ever right.

"However, if the way of Jesus is sublime, it is not the only good way, or under all circumstances the best way. Perhaps today's world needs reasonableness more than it needs fervor, and wisdom rather than holiness. I therfore tend to favor Bertrand Russell's broader outlook: 'No one who holds that human conduct ought to be such as to promote certain ends — no matter what end may be selected — will expect any absolute hard and fast rules of conduct to which no exceptions can be found.'"

is molested? (The registrant is indebted to material published by the Central Committee for Conscientious Objectors in answering the above.)

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8. Is the registrant's conscientious objection based upon the views of the Watchtower Bible and Tract Society as expressed in the pamphlet "Neutrality" and the article "Why Jehovah's Witnesses are not Pacifists"?

No.

9. Irrelevant.

11. Is the registrant's objection based

10. See answer to question

[fol. 134]

GOVERNMENT'S EXHIBIT 26

.85

NEW YORK CITY APPEAL BOARD
FOR THE SELECTIVE SERVICE SYSTEM
IN THE EASTERN FEDERAL
JUDICIAL DISTRICT - PANEL No. 2
205 East 42nd Street
New York 17, N. Y.

Selective Service System
LOCAL BOARD NO. 56

MAR 18 1959

39-01 Main Street
Flushing, N. Y.

16 March 1959

50- 66-35-620

Honorable Cornelius W. Wickersham, Jr.
United States Attorney
Eastern District of New York
271 Washington Street
Brooklyn, New York

Subject: SEEGER, Daniel Andrew
Conscientious Objector

Dear Sir:

Pursuant to the provisions of Section 1626.25 of the Selective Service Regulations, we transmit herewith the cover sheet of the above named registrant for the purpose of securing an advisory recommendation from the Department of Justice, on his claim as a conscientious objector.

The Appeal Board has reviewed the file and has tentatively determined that the registrant should not be classified in Class I-O or in a class lower than Class I-O.

Sincerely yours,

Vito F. Lanza
Chairman

39-01 [illegible] Street
Flushing, N. Y.

16 March 1959

50- 66-35-620

Honorable Cornelius W. Wickersham, Jr.
United States Attorney
Eastern District of New York
271 Washington Street
Brooklyn, New York

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Sincerely yours,

Vito F. Lanza
Chairman

Enclosure: Cover Sheet
cc: Local Board No. 66

[fol. 135] GOVERNMENT'S EXHIBIT 27-A

SLOAN-KETTERING INSTITUTE FOR CANCER RESEARCH
RESEARCH UNIT OF MEMORIAL CENTER
FOR CANCER AND ALLIED DISEASES
410 EAST 68TH STREET
NEW YORK 21, NEW YORK

September 2, 1959

Mr. John M. Lockwood
22 Oakwood Road
Huntington, New York

Dear Mr. Lockwood:

This letter is to acknowledge your notification advising me of the hearing which will be held to consider my claim for exemption from military service.

Within the next few days I will send you a written statement containing my comments on the inquiry conducted by the FBI. In order that my comments can deal exactly with the information developed by the investigation, and in order that I may be prepared to adequately refute any erroneous information or impressions contained in the report, I would like to strongly request permission to peruse the entire file compiled by the FBI relevant to my claim. With your permission I would like to see the report before the hearing. Please advise me as to the circumstances under which I may do so.

I will appear at the Federal Building with my witnesses on September 10, 1959 at 11:30 a.m. for the proceedings.

Thank you for your attention.

Yours truly,

Daniel A Seeger

Daniel A. Seeger

[fol. 136] GOVERNMENT'S EXHIBIT 27-B

COPY

September 3, 1959

Mr. Daniel A. Seeger
Sloan-Kettering Institute for
Cancer Research
410 East 68th Street
New York 21, New York

Dear Mr. Seeger:

I have your letter of September 2, 1959.

The notice of hearing and the summary of the information received during the investigation contained no indication that there was any "erroneous information or impressions."

The file compiled by the FBI is confidential and I am in no position to permit you to peruse it.

I am sure that you will not be handicapped by the confidential nature of the report at the hearing, as you will have a full opportunity to bring out all the information you desire.

Yours very truly,

COPY

Mr. Daniel A. Seeger
Sloan-Kettering Institute for
Cancer Research
410 East 68th Street
New York 21, New York

Dear Mr. Seeger:

I have your letter of September 2, 1959.

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Yours very truly,

John M. Lockwood

JML:CH

[fol. 137] ENCLOSURE TO GOVERNMENT'S EXHIBIT 27-C

328 W. 89th Street
New York 24, New York

September 8, 1959

Mr. John Marshall Lockwood
22 Oakwood Road
Huntington, New York

Dear Mr. Lockwood:

I have enclosed herewith my comments on the resume of the inquiry conducted by the FBI as suggested in Paragraph Five of the Addendum you sent me.

Respectfully,
Daniel A. Seeger
Daniel A. Seeger

DS:bja

[fol. 138] GOVERNMENT'S EXHIBIT 27-C

Registrant's Comments on Resume of Information Developed by the Inquiry.

Daniel A. Seeger
328 W. 89th Street
New York City 24, N.Y.

The traditional American attitude toward the political, religious, and philosophical convictions of citizens is that these topics are primarily a matter of individual conscience, not public business, and that the genuineness of a person's beliefs is reflected in the integrity with which he faces the general activities and events, both large and small, of daily life. The resume of information compiled by the FBI has many appropriate references to such general behavior, and on this aspect of the report I need not comment.

However, it cannot be expected of a person that he confide the details of his political beliefs to employers or business acquaintances, or that he describe the items of his religious belief to professors or neighbors. The respect for the integrity and privacy of the individual conscience is fundamental to our way of life. I cannot condone any inquiry which seems to imply that an indiscriminate knowledge by everyone of everyone else's private thought is an ideal. The idea that an individual must prove his sincerity by exposing his private political beliefs to the surveillance of employers or neighbors strikes at the very heart of democracy.

> "Current neighbors comment favorably upon registrant's character and reputation but were unable to comment on the sincerity of his claim."

No one who is at all familiar with the manners and habits of apartment dwellers in Manhattan could expect a neighbor to have enough knowledge of the situation to offer comment.

320 W. 69th Street
New York City 24, N.Y.

The traditional American attitude toward the political, religious, and philosophical convictions of citizens is that these topics are primarily a matter of individual conscience, not public business, and that the genuineness of a person's beliefs is reflected in the integrity with which he faces the general activities and events, both large and small, of daily life. The resume of information compiled by the FBI has many appropriate references to such general behavior, and on this aspect of the report I need not comment.

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> "Current neighbors comment favorably upon registrant's character and reputation but were unable to comment on the sincerity of his claim."

No one who is at all familiar with the manners and habits of apartment dwellers in Manhattan could expect a neighbor to have enough knowledge of the situation to offer comment.

> "Registrant has been employed at the Marine Midland Trust Company as a clerk since December 10, 1957. Fellow employees commented favorably upon the registrant's character but did not know of his conscientious-objector claim and could not comment on his sincerity with respect to such a claim. One employee advised that he and some other clerks discussed military service and teased the registrant about his having to go into the military service. He stated that the registrant never expressed

[fol. 139]

any objections to military service. He further advised that the registrant never discussed his psychological or religious beliefs and kept his affairs to himself."

I have no "psychological beliefs."

I am certain that at one time or another during my employment at the Marine Hall in Detroit I told various co-workers of my claim. I am positive that at the time I left Marine Midland at least four of the people in my office knew of my claim. (The staff I worked on consisted of from six to eight people). I am surprised in discussing this statement in the results by not knowing who the I interviewed. Perhaps they confided their information to older superiors with whom I never spoke about anything except business.

During my employment at Marine Midland three other students were hired, all of whom had just finished military service. Naturally the conversation was predominantly about their experiences, and naturally they jestingly gloated at the only non-veteran in the group. The teasing was good-natured and I enjoyed the best relationship with them.

When a person entertains an unconventional point of view which he believes in seriously, he can hardly be expected to expound upon it in a group whose mood is jocular, for example when three veterans are teasing a non-veteran about the services. Rather it would be expected that a person with an uncommon point of view would wait until the advocates of the standard idea were faced with a paradox in their position and then would try to make a point in the more serious atmosphere.

Each of the employees who used to tease about military service came eventually to know of my conscientious objector claim. All discussed it with me from time to time.

The registrant believes that the character references contained in the report are valid. However, it seems that the reiteration of the idea that certain people had no knowledge of the claim is unjust. It seems to the registrant that the people who were interviewed would hardly be likely to know of the claim. The nature of the convictions is such that it is most likely to be discussed among personal friends, not among fellow office workers or neighbors.

I have no psychiatric problems.

I am certain [illegible] during my employment at the [illegible] told various co-workers of my claim. [illegible] the time I left [illegible] office knew of my claim. (The staff I worked on consisted from ten to eight people). [illegible] Considering this statement in the record, [illegible] interviewed. Perhaps they confined their [illegible] older employers with whom I never spoke about [illegible] matters.

During my employment at [illegible] three other students were hired, [illegible] finished military service. Naturally the conversation [illegible] predominantly about their experiences, [illegible] naturally they jestingly [illegible] as the only non-veteran in the group. The teasing was good-natured [illegible] enjoyed the best relationship with them.

When a person encounters [illegible] point of view which he believes in seriously, he can hardly be expected to expound upon it in a group whose mood is jocular, for example when three veterans are talking [illegible] about the services. Rather it would be expected that a person with an uncommon point of view would wait until the advocates of the standard idea were faced with a pure ox in their position and then would try to make a point in the more serious atmosphere.

Much of the employees who used to talk about military service came eventually to know of my conscientious objector claim. All discussed it with me from time to time.

The registrant believes that the character references contained in the report are valid. However, it seems that the reiteration of the idea that certain people had no knowledge of the claim is unjust. It seems to the registrant that the people who were interviewed would hardly be likely to know of the claim. The nature of the convictions is such that it is most likely to be discussed among personal friends, not among fellow office workers or neighbors.

The registrant developed a wide circle of acquaintances while a student at Loyola College. Apparently the FBI spoke to none of them. The registrant was editor-in-chief of the undergraduate newspaper, in which capacity he had to deal with 40 to 60 people under circumstances (editorial board meetings) which would cause his ideas to be obvious to all of them. Their names are clearly listed in the masthead. Apparently the FBI interviewed no one who was a member of my staff on the newspaper. The campus

[fols. 140-141]

[fol. 142]

GOVERNMENT'S EXHIBIT 31

NEW YORK CITY APPEAL BOARD
FOR THE SELECTIVE SERVICE SYSTEM
IN THE EASTERN FEDERAL
JUDICIAL DISTRICT - PANEL No. 2
205 East 42nd Street
New York 17, N. Y.

50-CC-35-220

23 October 1959

Mr. Daniel Andrew Seeger
328 West 89th Street
New York 24, New York

Dear Sir:

Your appeal is before this Appeal Board Panel for consideration and action.

In line with existing procedure and before action is taken by the Panel, an opportunity is afforded you to file a reply to the recommendation of the Department of Justice.

A copy of the recommendation of the Department of Justice is enclosed herewith for your information and study. You have thirty days from the date of the mailing of this letter in which to file a reply with this Appeal Board concerning the recommendation of the Department.

We will not decide your appeal until a reply is received from you or the thirty day period has expired, whichever occurs first.

In arriving at our decision, you may rest assured that we will consider all the evidence in your file, together with the recommendation of the Department of Justice, and any reply received from you.

Yours truly,

Vito F. Lanza
Chairman

New York 17, N. Y.

23 October 1959

50-(-35-(20

Mr. Daniel Andrew Seeger
328 West 89th Street
New York 24, New York

Dear Sir:

Your appeal is before this Appeal Board Panel for consideration and action.

In line with existing procedure and before action is taken by the Panel, an opportunity is afforded you to file a reply to the recommendation of the Department of Justice.

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We will not decide your appeal until a reply is received from you or the thirty day period has expired, whichever occurs first.

In arriving at our decision, you may rest assured that we will consider all the evidence in your file, together with the recommendation of the Department of Justice, and any reply received from you.

Yours truly,

Vito F. Lanza
Chairman

Enclosure
cc: Local Board No. 66 ✓

[fol. 143] GOVERNMENT'S EXHIBIT 33-A

328 West 87th Street
New York City 24, New York

November 2, 1959

Mr. Vito F. Lanza, Chairman
New York City Appeal Board
Eastern Federal Judicial District
Panel No. 2
205 East 42nd Street
New York 17, New York

Dear Sir:

I have enclosed my reply to the recommendation of the Department of Justice relevant to my conscientious objector claim.

I would like to inquire if it would be possible to appear before the Board in person to clarify any questions that may arise concerning my contentions.

Also enclosed is a letter from my family which I have consented to send. I submit it for whatever interest it may have to you.

Thank you very much for your attention.

Yours truly,

Daniel A. Seeger

Daniel A. Seeger

SSS ref. 50-66-35-620

DAS:bja

The Board has before it two contradictory recommendations, one by Special Hearing Officer John Marshall Lockwood and the other by Mr. T. Oscar Smith of the Department of Justice. I would like to thank the Board for this opportunity to present my own comments. I will proceed directly with the discussion, which will be based on six points:

I. ON THE AMERICAN IDEAL

> "He (God) has formed us moral agents ... that we may promote the happiness of those with whom he has placed us in society, by acting honestly toward all, benevolently to those who fall within our way, respecting sacredly their rights, bodily and mental, and cherishing especially their
>
> freedom of conscience,
>
> as we value our own. I must ever believe that religion substantially good which produces an honest life, and we have been authorized by one whom you and I equally respect to judge of the tree by its fruit. Our particular principles of religion are a subject of accountability to our God alone. I inquire after no man's and trouble none with mine, nor is it given to us in this life to know whether yours or mine, our friends' or our foes', are exactly the right. Nay, we have heard it said that there is not a Quaker or a Baptist, a Catholic or a Protestant in Heaven, that, on entering the gate we leave those badges of schisms behind and find ourselves united in those principles only in which God has united us all."
>
> THOMAS JEFFERSON

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I. ON THE AMERICAN IDEAL

> "He (God) has formed us moral agents ... that we may promote the happiness of those with whom he has placed us in society, by acting honestly toward all, benevolently to those who fall within our way, respecting sacredly their rights, bodily and mental, and cherishing especially their
>
> freedom of conscience,
>
> as we value our own. I must ever believe that religion substantially good which produces an honest life, and we have been authorized by one whom you and I equally respect to judge of the tree by its fruit. Our particular principles of religion are a subject of accountability to our God alone. I inquire after no man's and trouble none with mine, nor is it given to us in this life to know whether yours or mine, our friends' or our foes', are exactly the right. Nay, we have heard it said that there is not a Quaker or a Baptist, a Catholic or a Protestant in Heaven, that, on entering the gate we leave those badges of schisms behind and find ourselves united in those principles only in which God has united us all."
>
> THOMAS JEFFERSON

> Amendment IX
>
> The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Having been so thoroughly schooled in the concepts which are typified by the preceding passages, it seems strange to find myself facing a blank page with the chore of writing a

defense of a right to be treated as citizens even though [illegible] cultural national differences from them.

The fifty states of America are originally formed as a social contract under permitted citizens a freedom of choice to construct their lives after their own individual fashion, to create their own happiness, and to grow in morality and [illegible] justice in the spiritual sense by their personal exemplance. The architects of the republic, fearful of their own unpleasant experiences, were careful to provide that their growth of the individual should not be inhibited by the dominance of an over-ruling state or by the power the proclamations of a religion or complicity of [illegible] or unification.

These concepts were formulated into a government by the leaders of a small, agrarian society. The thirteen colonies were separated from other powerful nations by the then vast Atlantic Ocean. The sense of place in the new idea of government and the liberties it was designed to preserve by the [illegible] of that society and the growing proximity of other industrialized nations [illegible] to perpetuate those precious freedoms to [illegible] unforeseen in their formulation. By and large the spirit of the terms of the framers of the Constitution has been preserved. The existence of this appeal board is a witness to that fact.

The greatest challenge to democracy has been the rise in the world of fallen [illegible] philosophies born amidst great bitterness, deprivation and chaos. In the subsequent global conflicts they remained elsewhere but [illegible] war. We have already grown accustomed to those wars, and number them as in anticipation of an entire series.

We need not lament here the dismal past, the extermination of vast civilian populations, the application of the human intellect once to the invention of diabolical weapons and the [illegible] annihilation of the prime of the race into battles. Some of the latter, merely 18, rallied by the sound of trumpets, knew nothing of the ways of men and the implication of their deeds. They are

defense of my right to be treated as others ever should my [illegible] differ from theirs.

[illegible] of America, who originally [illegible] permitted citizens [illegible] to pursue their lives [illegible] and individual [illegible], to pursue their own happiness, [illegible] to [illegible] justice in the [illegible] security, to [illegible] confidence. The architects of the Republic, mindful of their own unpleasant experiences, were careful to provide that this growth of the individual should not be inhibited by the restraints of an over-zealous state or by the [illegible] machinations of a religion or complicity of [illegible] institutions.

[illegible] were formulated into a government by the [illegible] of a young, agrarian society. The thirteen colonies [illegible] from other powerful nations by the then vast [illegible] ocean. The forces placed in the new hands of government and the liberties it was designed to preserve, by the [illegible] of that society and the growing proximity of wider threatening [illegible] called for [illegible] to accommodate those precious freedoms [illegible] conditions unforeseen at their formation. By and [illegible] the courts of the land of the Constitution [illegible] preserver. The existence of this appeal board is a witness to that fact.

The [illegible] to democracy has been the rise in the world of [illegible] totalitarianism - illegitimate born [illegible] fear, frustration and chaos. In the subsequent [illegible] conflict many see the alternative as that war. We have already been accustomed to these wars, and number them as [illegible] in anticipation of an entire series.

We need not lament here the dismal past, the extermination of vast civilian populations, the application of the human intelligence to the invention of diabolical weapons and the conscription of the prime of the race into battles. Some of the latter, barely 18, rallied by the sound of trumpets, knew nothing of the ways of men and the implication of their deeds. They are the most tragic. Others, perceiving the madness were bullied and went along for expediency's sake. They are pitiable. Still others, seeing no alternative but battle made their great sacrifice in the hope of a better future for their fellows. They are truly heroic. No matter how convinced one may be of the futility and evilness of their method, one cannot negate their intent.

[fol. 146]

[illegible]

It would not be [illegible]

[illegible]

John Stuart Mill, in his [illegible] On Liberty, has provided the most classic [illegible] role of free consideration in an open society. The function of democracy requires an broadest dispersal of the spectrum of opinion. Solving the problems under the society thus involves the process of selection from "the marketplace of ideas" of the best solution. This occurs through a competitive process of argument and discussion. Government disparagement or denial of a specific point of view will narrow the [illegible] and skew the ultimate solution less exact. Even rejected and unpopular points of view must be protected. Their role is akin to Socrates' "gadfly" function.

Neither the non-pacifist nor the pacifist would be inclined to deny that the problems of war and peace are the greatest which this nation faces. Is it proper then, if the delicate balance of democracy is to survive, to circumscribe "permitted" views by certain philosophical specifications? Can democracy afford to deny anyone's vision now that it faces its greatest challenge?

II. ON LEGISLATIVE GRACE

"Law sharpens the mind by narrowing it."

[illegible]

[illegible]

John Stuart Mill, in [illegible] on Liberty, [illegible] role of free conflict in an open society. The [illegible] of democracy requires the broadest dispersion of the sparks of opinion. Solving the problem wisely in each case involves the process of selection from "the marketplace of ideas" of the best available. This means encouraging a variety of [illegible] dissension. Government cannot [illegible] denial of a specific view will improve the [illegible] and make the ultimate solution less exact. Even rejected and unpopular points of view must be protected. Their presence will be akin to Socrates' "gadfly" function.

Neither the non-pacifist nor the pacifist would be inclined to deny that the problems of war and peace are the greatest which this nation faces. Is it proper then, if the delicate balance of democracy is to survive, to circumscribe "permitted" views by certain philosophical specifications? Can democracy afford to deny anyone's vision now that it faces its greatest challenge?

II. ON LEGISLATIVE GRACE

"Law sharpens the mind by narrowing it."
EDMUND BURKE

The following is the line of reasoning subscribed to by Mr. Smith, judging by the cases he cites in his letter: No one has the constitutional right to exemption from military service. But, as an act of legislative grace, Congress excuses certain conscientious objectors who believe in the Deity. Congress can choose whom it wishes to exempt. The others have no cause to complain. Because conscientious objector status is not a Constitutional privilege, the legislature's granting of

[fol. 147]

exemption to some objectors does not really abridge the rights of those denied exemption. Neither does it frustrate the interest of the framers of the Government for equality before the law for all.

I have no doubt that this line of reasoning would cause some surprise to the early patriots, could they hear it. How can the distribution of privileges, along lines of religious or political belief be considered as other than contrary to our doctrines of freedom and equality?

The Constitution grants no one the right to be exempt from taxation. If Congress, as a matter of legislative grace, exempted all Democrats from taxation, no one would blame the Republicans for objecting on the basis that this frustrates all the carefully designed protections of political freedom and equality. It is true that Republicans are not granted the right to be exempt from taxation by the Constitution, but so is that make such a suggestion any less unconstitutional?

The same argument would be true where a legislature would prescribe certain religious or philosophical beliefs as a prerequisite for certain favors.

The exemption provided for conscientious objectors is a necessary minimal application of justice in a democratic society, but to circumscribe that exemption by specifying what religious beliefs a person must hold to get it is to frustrate the entire spirit in which the Constitution was designed.

III. ON RELIGION AND THE DEITY

> "Vital religion has always suffered when orthodoxy is more highly regarded than virtue; and the Scriptures assure us that at the last day we shall not be examined on what we thought, but by what we did."
>
> BENJAMIN FRANKLIN

Mr. T. Oscar Smith has presented a certain dogmatic test and has declined to recommend a I-O classification because I have failed to fulfill it. In so doing he has selected from my file certain negative statements I made for the purpose of clarification and honesty. I am not prone to stinginess with words. I believe

before the law for all.

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Mr. T. Oscar Smith has presented a certain dogmatic test and has declined to recommend a I-O classification because I have failed to fulfill it. In so doing he has selected from my file certain negative statements I made for the purpose of clarification and honesty. I am not prone to stinginess with words. I believe there is much else that is positive in my remarks and which he has apparently overlooked. Special Hearing Officer Lockwood, in formulating his opinion, did not overlook them. I already have assurances in Mr. Lanza's letter of November 3 that the board will study the entire file, so I will not trouble to repeat them here.

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As Benjamin Franklin wisely understood, true religious motivation is not something to be identified with specific dogmas and creeds. It is especially important to realize that religious feeling need not have any connection with the supernatural. In fact, through history, the highest kind of religious feeling has occurred when men dared to throw off a burden of historic and dogmatic encumbrances which were fundamentally irrelevant to the problems of life. John Stuart Mill held that the essence of religion is a sense of unity with mankind. According to Auguste Compte "religion ... finds its actual expression in the active service of humanity."

Little can be said to justify a contention that people who do not assert the existence of a divinity beyond the realm of nature are not as devoted to just and humane causes as those who do. The overwhelming majority of thinkers would deny any exclusive identification of belief in supernatural systems with religiousness and right conduct. I will not lengthen an already painfully verbose discourse with extensive quotes to demonstrate the bulk of considered opinion that would contradict the criteria of Mr. Smith and the Universal Military Training Act. I will, however, list them separately (see Appendix).

We are indebted to the great American philosopher John Dewey for the most comprehensive formulation of the character of religious feeling not based on supernatural beliefs. Dewey maintains that any complex of conditions that operate to effect an adjustment in life and a sense of community with mankind is religious. The vehicle for achieving this orientation may be the doctrinal and intellectual apparatus of tracitional religions, it may be poetry, or it may be the imagination of the individual working upon the material and insights gathered from everyday experience.

For Dewey, "any activity pursued in behalf of an ideal end against obstacles and in spite of threats of personal loss because of conviction of its general and enduring value is religious in quality. Many persons, inquirers, artists, philanthropists, citizens, men and women in the humblest walks of life, have achieved, without presumption, and without display, such unification of themselves and of their relations to the condition of existence. It remains to extend their spirit to wider numbers."

motivation is now something to be identified with specific dogmas and creeds. It is especially important to realize that religious feeling need not have any connection with the supernatural. In fact, through history, the highest kind of religious feeling has occurred when men dared to throw off a burden of historic and dogmatic encumbrances which were fundamentally irrelevant to the problems of life. John Stuart Mill held that the essence of religion is a sense of unity with mankind. According to Auguste Compte "religion ... finds its actual expression in the active service of humanity."

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Dewey was an avowed atheist. Yet no one would seriously propose that the dictates of his conscience were less binding on him than in the case of other people or that his right to believe what he thought was unimportant. He himself would be the last to agree that a person's privilege to believe and act as he chooses should be tied up to their supernatural beliefs.

Dewey was a great [illegible] of the democratic ideal and its social contributions to modern philosophy are celebrated throughout the world. This year we are celebrating the one-hundredth anniversary of his birth. Serving on the National Honorary Committee are such distinguished Americans as Chester Bowles, Norbert A. Lyons, A. A. Berle, Jr., and Justices Hugo Black, Felix Frankfurter, and Learned Hand.

Personally, I cannot believe that life derives any meaning from cosmic design but I do believe that person can give his life meaning by doing something worthwhile with it, i.e. by relating his existence in a constructive and [illegible] way to the problems of his social environment. In this sense pacifism, among other things, is for me a transcendent concern and it is in this respect that I consider myself religious.

IV. ON THE SILENCE OF GOD AND THE LOQUACIOUSNESS OF MAN

"The heavens are still; no sound,
Where then shall God be found?
Search not in distant skies;
In man's own heart he lies."
Lin Yutang

Is it not true that Reinhold Niebuhr does bear a subtle resemblance to Reinhold Niebuhr insofar as he projects his own aspirations into the Deity, and is this not also true of Bishop Sheen's concept, and of Al Hasting, of Maritain, and of Buber as well. Men have always attributed the figure of God to enhance their own aspirations and justify their own version of a benevolent cove. The result is a wide variety of contradictions in what people would have us believe is the word of God. A current example is the controversy between Roman Catholics and other Christian churches in the matter of birth control.

The truth of course is that God, if he exists, reveals his wisdom to no one and no one is entitled to pose as a privy-counselor for a Deity. Frequently the word symbol is used to signify value judgments which are emotional or pre-rational. Often this may be good and useful, but sometimes it is applied to the fostering of bad actions for which no justification can be

as such as contributions to modern philosophy are celebrated throughout the world. This year we are celebrating the one-hundredth anniversary of his birth. Serving in the best and noblest traditions of such distinguished Americans as [illegible], Norbert A. Lewis, A. A. Berle, Jr., and Justice [illegible], Felix Frankfurter, and Learned Hand.

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IV. ON THE SILENCE OF GODS AND THE LOQUACIOUSNESS OF MEN

"The heavens are still; no sound.
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In man's own heart he lies."
CARL YUNG

Is it not true that Reinhold Niebuhr does bear a striking resemblance to Reinhold Niebuhr insofar as he projects his own aspirations into the Deity, and is this not also true of Bishop Sheen's concept, and of Augustine, of Aquinas, and of Buber as well. Men have always utilized the figure of God to enhance their own aspirations and justify their own version of a behavioral code. The result is a wide variety of contradictions in what people would have us believe is the word of God. A current example is the controversy between Roman Catholics and other Christian Churches in the matter of birth control.

The truth of course is that God, if he exists, reveals his opinions to no one and no one is entitled to pose as a privy-counselor for a Deity. Frequently the God symbol is used to justify value judgements which are emotional or pre-rational. Often this may be good and useful, but sometimes it is applied to the fostering of bad actions for which no justification can be found.

I have no particular quarrel with other-worldly religion. I certainly realize that many men have been inspired and sustained in their great and generous work on the basis of a supernatural religious commitment. I will not, therefore, mimic a querulous free-thought tract by enumerating some notorious historical occurrences perpetrated in the name of God. The question, in

[illegible] ...

...

...

in close communion with God can withdraw land from cultivation when children the world over are starving. Not four years ago the present Secretary of Agriculture [illegible] policy. I would say that the Secretary of Agriculture is not a free man. I would say that all officials [illegible] which has at its disposal the power of [illegible] most defacing poverty in the world but who are compelled to pursue such policies as not [illegible] by claiming [illegible] which bears to prove [illegible] enslave the country. [illegible] must be strong to fight totalitarianism.

It is difficult for me to conclude otherwise than that men who, out of fear of totalitarianism, are compelled to withdraw land from cultivation while others starve, are already its slaves. It is true that they can move about as they please and they can vote. But for my part I think I should feel freer in jail than many of my jailors and freer than the Secretary of Agriculture.

VI ON PACIFISM

haiku

here, where a thousand
captains swore grand
conquest...tall
grass their monument
BASHO

Dew evaporates
and all our world
is dew...so dear,
so fresh, so fleeting
ISSA

I would like to conclude with the following well-known remark of Gandhi: "Passive resistance is an all-sided sword; it can be used anyhow; it blesses him who uses it and him against whom it is used. Without drawing a drop of blood, it produces far-reaching results. It never rusts, nor can it be stolen. Competition between passive [illegible] does not exhaust. The sword of passive resistance does not require a scabbard. It is strange indeed that you should consider such a weapon to be a weapon merely of the weak."

I present Gandhi's words here as a small concession to an impulse to discuss the specifics of the non-violent viewpoint. I have sought to confine myself in this paper to the legal and philosophic questions which are relevant to the board's business.

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the light of these generally known events, is: Since traditional religious causes have encompassed both great good and great evil perpetrated in the name of God, how can citing God be itself considered an indicative factor of the justice or merits of a cause?

V. ON THE UTTERLY FUTILE POSITION OF THE JUSTICE DEPARTMENT AND THE NEEDLESSNESS OF JAILS

"It is a superstitious and ungodly thing [illegible] of a majority binds a minority. Many examples can be given in which laws of majorities will be found to [illegible], and those of minorities [illegible] right. All reforms owe their [illegible] initiation of minorities in [illegible] majorities."

MOHANDAS GANDHI

However, not even the most orthodox theologian pretends that the existence of God is something which can be "proven". Those who posit the existence of a Deity outside the power of nature usually understand that this is so by mystical perception or faith.

The illusive and non-cerebral nature of the theological concept is granted. Might not one then inquire as to the failure of lawyers and the like demanding that others assent to it, especially considering lawyers' well known reluctance to accept [illegible] facts without the most compelling and [illegible] proof, particularly in matters concerning the good [illegible] of their fellow men.

Any fair fair-minded person will grant that, especially in the [illegible] of Christianity, pacifism is a central tenet of the faith which has been largely forgotten in modern life. God-fearing people who insist that pacifists believe in a Supreme Being are in an unenviable moral position. Thus Mr. Smith and the Justice Department are guilty of harassing people who, for humanitarian reasons, practice in everyday life what they, the Mr. Smiths, for spiritual reasons, will assent to only on the Sabbath.

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It is difficult to understand how a nation of people in close communion with God can withdraw land from cultivation when children the world over are starving. Not four weeks ago the present Secretary of Agriculture reaffirmed this policy. I would say that the Secretary of Agriculture is not a free man. I would say that all officials of a country which has at its disposal the means of eliminating at least the most degrading poverty in the world but who are conniving to pursue such policies are not free men. They rationalize by claiming said policies necessary to bolster our economy, which needs to provide at a most rapid rate the latest model cars to the community. They rationalize by saying our economy must be strong to fight totalitarianism.

It is difficult for me to conclude otherwise than that men who, out of fear of totalitarianism, are compelled to withdraw land from cultivation while others starve, are already its slaves. It is true that they can move about as they please and they can vote. But for my part I think I should feel freer in jail than many of my jailors and freer than the Secretary of Agriculture.

VI On Fascism

haiku

here, where a thousand
captains swore grand
conquest...tall
grass their monument

BASHO

Dew evaporates
and all our world
is dew...so adorn,
so fresh, so fleeting

Issa

I would like to conclude with the following well-known remark of Landauer: "Revolution is an evil--since it uses; it can be used anyhow; it blesses him who uses it and him against whom it is used. Without spending a drop of blood

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Consequently, I have finished this long discourse without much exposition of my pacifist beliefs, which seems odd, since it appears to me that ultimately the justice of my claim is in their validity.

Daniel A Seeger

Daniel A. Seeger

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APPENDIX

"The religious geniuses of all ages have been distinguished by this kind of religious feeling, which knows no dogma and no God conceived in man's image; so there can be no church whose central teachings are based on it. Hence, it is precisely among the heretics of every age that we find men who were filled with the highest kind of religious feeling, and were in many cases regarded by their contemporaries as atheists, sometimes also as saints."

ALBERT EINSTEIN

"Religion is the version of something which stands beyond, behind and within the passing flux of immediate things; something which is real, and yet waiting to be realized; something which is a remote possibility, and yet the greatest of present facts; something which is the ultimate ideal, and the hopeless quest."

ALFRED NORTH WHITEHEAD

". . . which in instructing us animates us with basic principles for action, and wholly subjects whatever Scripture may contain for historical faith to the rules and incentives of pure moral faith, which alone constitutes the element of genuine religion in each ecclesiastical faith."

IMMANUEL KANT

"Rejection of creed is not inconsistent with being possessed by a living belief. We have no creed in science, but we are not lukewarm in our beliefs . . . in religion we are repelled by that confident theological doctrine which has settled for all generations just how the spiritual world is worked; but we need not turn aside from the measure of light that comes into our experience showing us a way through the unseen world."

SIR ARTHUR EDDINGTON

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ALFRED [illegible]

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SIR ARTHUR EDDINGTON

"What is hateful to thee, do not to thy fellow man: This is the whole law; the rest is mere commentary."

HILLEL

"Religion means fundamentally faith in a meaningful existence... (this) implies wholeness---the integration of life about a center with radii extending in proper balance to every aspect of life."

GEORGIA HARKNESS

enthusiasm of the people of Texas during the first world war, when most people in this country truly believed we were fighting for the benefit of all mankind, and that out of it would come a beautiful serenity for all the world. Instead we got only the seeds of a greater and more terrible war.

When programs routinely came on television showing scenes from various phases of the last war, I always stressed to my children that the people whose homes had been destroyed were no less virtuous than we, but simply people pretty much like ourselves who wanted only to be allowed to go about their business and raise their families just as we did.

When communists made their strong marches, frequently pointed out the irony of the time said (as it [illegible] an army became a mere determination

of it would come a beautiful serenity for all the world. Instead we get only the seeds of a greater and more terrible war.

When programs occasionally come on television showing scenes from various phases of the last war, I always stress to my children that the people whose homes had been destroyed were no less virtuous than we, but simply people really made like ourselves who wanted only to be allowed to go about their business and raise their families just as we did.

When commentators made their stirring remarks, I frequently found out the irony of the terms used (as in "fanatacism" in an enemy became "hyper determination" in describing the other side of the same coin.)

I differently recall that when there was mention of our love of pure cereal nature, in which category we included Japan, Germany, Russia, and the United States, I wondered that that must sound very

unconvincing as a description to all the little people - who must realize that we ourselves were the first (and I hope forever the only) nation to use an atomic bomb, and that if any other nation had used them first we would most loudly have proclaimed them barbaric.

On another occasion, when we had been discussing a matter of this sort and Daniel (then a very young lad) commented that he thought the solution must be for everyone to just refuse to fight, I recall asking if he thought the man that dropped the bomb was any more responsible for the result than the man who made it or the man who made the machinery to make it etc etc etc And I recall adding "No, Daniel! There is no easy absolution from the collective guilt of mankind."

My son has departed from the formal faith in which he was raised,

if any other nation had used them first we would most loudly have proclaimed them barbaric.

On another occasion, when we had been discussing a matter of this sort and Daniel (then a very young lad) commented that he thought 'the' solution must be for everyone to just refuse to fight, I recall asking if he thought the man that dropped the bomb was any more responsible for the result than the man who made it or the man who made the machinery to make it etc etc etc. And I recall adding "No, Daniel! There is no easy absolution from the collective guilt of mankind."

My son has departed from the formal faith in which he was reared, but not from the ideas that were "crooned to him in the cradle" as we were. The apple has not fallen so very far from the tree, after all.

I love my country greatly, but

[illegible] which have been brought about
[illegible] in the warfare and
[illegible] against the aggressor of
[illegible] Italy. I do not believe
that [illegible] accomplished
[illegible] it useful to our own country or
[illegible] the cause of justice even slightly.

The right quality in our dear of how
peace may be maintained, but on it is on
[illegible] argument that it must be maintained
if the human race is to continue to exist,

Our differences on the subject of
religion and national policy became so
frequent and so heated that he left our
home to avoid involving us in the question,
and [illegible] of his firm determination in the
matter. Such attitudes are so recently
acquired [illegible] dreadful danger doomed merely
to expend a fleeting that many other young
men also found onerous and unpleasant.

[illegible] there. I do not believe
that [illegible] can be accomplished
by [illegible] to our country or
to extend the cause of justice even slightly.

The higher quality in our idea of how
peace may be maintained, but we are in
hearty agreement that it must be maintained
if the human race is to continue to exist.

Our differences on the subject of
foreign and national policy became so
frequent and so heated that he left our
home to avoid involving us in his position,
an index of his firm determination in the
matter. These attitudes are so recently
acquired wardrobe dressings donned merely
to avoid a duty that many other young
men also find onerous and unpalatable.

I like & personally believe that a strong
and well equipped United States determined on
peace but prepared to resist aggression is
essential to prevent the loss of our freedom,
Daniel is just as surely convinced that—
nations which build up large war machine

sooner or later be bound to see them.

Having started our offspring to
themselves, it would be much more comfortable
if we could turn off the furnace when
they had reached conclusions which
most nearly coincide with our own.
But that is not possible, nor in the
interests of progress wholly desirable.
I had no idea when I was expressing
my mind on various matters, just
what the results would be. I might have
been less truthful if I had foreseen the
result.

I have appealed to Daniel on the
score of his own self interest, the reputation
and sanity of our family, and every other
argument I have been able to muster. The
answer is always that he is shocked that
I would suggest that he do what is
expedient rather than what is right!

Much as I deplore his attitudes,

of the world turn off the progress which they had reached conclusions which most nearly coincide with our own. But that is not possible, nor in the interests of progress wholly desirable. I had no idea when I was speaking my mind on various matters, just what the results would be. I might have known how valuable of a tool foreign this result.

I have appealed to Canada on the basis of her own self interest, the reputation and security of our family, and every other argument I have been able to muster. The answer is always that he is shocked that I would suggest that he do what is expedient rather than what is right!

Much as I deplore his attitudes, I know that they are sincere; and I must acknowledge some responsibility in their formation.

Dorothy Leeper

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GOVERNMENT'S EXHIBIT 34

SELECTIVE SERVICE SYSTEM

Approval of Budget Bureau not required.

Selective Service System
LOCAL BOARD NO. 66
39-01 Main Street
Flushing, N. Y.
(Local Board Date Stamp)

INDIVIDUAL APPEAL RECORD

Name of registrant Seeger, (Last) Daniel (First) Andrew (Middle)

Selective Service Number 50 66 35 620

Classified by local board in Class 1-A until ....., 19....

Date classified Oct. 21, 1958, 19....

☐ Forwarded on appeal taken by registrant

Date forwarded to Appeal Board Jan. 2, 1959, 19....

Jane Finkbeiner
Member or Clerk of Local Board.

NEW YORK CITY APPEAL BOARD
FOR THE SELECTIVE SERVICE SYSTEM
IN THE EASTERN FEDERAL
JUDICIAL DISTRICT - PANEL No. 2
205 East 42nd Street
New York 17, N. Y.

MINUTES OF ACTION BY APPEAL BOARD

Selective Service System
LOCAL BOARD NO. 66
MAY 23 1960

Appeal Board New York 17, N. Y. for the State of 39-01 Main Street, Flushing, N. Y.
(Street and number) (City)

Classified in Class I A until ....., 19....., by the following vote:

Yes 4 No 0 MAY 9 1960

(Date of classification by Appeal Board)

(Local Board Date Stamp)

Name of registrant Seeger, (Last) Daniel (First) Andrew (Middle)

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Jane Fuchs
Member or Clerk of Local Board.

NEW YORK CITY APPEAL BOARD
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IN THE EASTERN FEDERAL
JUDICIAL DISTRICT - PANEL No. 2
205 East 42nd Street
New York 17, N. Y.

Selective Service System
LOCAL BOARD NO. 66

MINUTES OF ACTION BY APPEAL BOARD

MAY 23 1960

Appeal Board for the State of 39-01 Main Street
Flushing, N. Y.
(Street and number) (City)

Classified in Class I A until ....., 19...., by the following vote:

Yes 4 No 0

MAY 9 1960
(Date of classification by Appeal Board)

Percy Friedlander
Member or Clerk of Appeal Board.

INSTRUCTIONS.—The local board will prepare this form in duplicate. The original will be stapled or otherwise securely fastened to the inside of the front cover of the Cover Sheet (SSS Form No. 101) of each file forwarded to Appeal Board, and the copy will be retained in the local board files in lieu of the Registrants' Cover Sheet and attached to the charge-out card.

SSS Form No. 120

U. S. GOVERNMENT PRINTING OFFICE 16 37068-3

[fol. 161] GOVERNMENT'S EXHIBIT 36

May 24,1960

Mr. Daniel A. Seeger,
328 west 89 Street,
New York, 24, New York

Dear Sir: S.S.No.50-66-35-620

We are in receipt of your cover sheet from the Appeal Board and note that in your letter of November 2, 1959 addressed to Mr. Vito F. Lanza, Chairman of the New York City Appeal Board Panel No.2, you requested a personal appearance before the Appeal Board.

Please be advised that Selective Service regulations do not provide for a registrant to receive a personal appearance or interview before the Appeal Board. The Appeal Board determines a registrant's classification based on the information in his file, as well as any advisory recommendation from the Department of Justice and the registrant's reply to the recommendation of the Department of Justice.

For the Local Board,

Member, Local Board 66

[fol. 162] GOVERNMENT'S EXHIBIT 37-A

Daniel H Sceger

[fol. 163] GOVERNMENT'S EXHIBIT 37-C

June 3, 19[illegible]

Col. Paul Akst
Director of Selective Service
for New York City
205 East 42nd Street
New York, New York

Dear Sir:

On May 24, 1960, the Appeal Board here in New York City gave me a 1A classification, denying a request I had made to be considered a conscientious objector.

It is my belief that the appeal board's action could result in a substantial injustice. It would seem that the board incorrectly evaluated my contentions concerning the religious nature of my convictions as I described them in my letter of November 2, 1959.

It is difficult to deal with a contention by letter in matters of such an intimate and personal nature. I had requested permission to testify to the appeal board in person, but unfortunately prescribed procedure does not allow for such appearances. I have enclosed for your perusal a copy of the letter explaining my beliefs to the board.

I would like to point out that the Special Hearing Officer of the Department of Justice who interviewed me expressed a strong opinion that my appeal be granted. I have also enclosed for your information a copy of the Justice Department's recommendation in which Special Hearing Officer Lockwood's remarks are set forth.

It is my firm opinion that the Appeal Board's decision is unjust. In the light of the nature of my convictions, as explained in the enclosed letter, and in the light of the recommendation of the Special Hearing Officer, I would like you to review my case and to order my induction postponed pending your decision. Also I request that you carry an appeal to the President on my behalf.

Col. Paul Hast
Director of Selective Service
for New York City
205 East 42nd Street
New York, New York

Dear Sir:

On May 21, 1960, the Appeal Board here in [illegible] City gave me a 1A classification, denying a request I had made to be considered a conscientious objector.

It is my belief that the Appeal Board's action could result in a substantial injustice. It would seem that the Board incorrectly evaluated my contentions concerning the religious nature of my convictions as I described them in my letter of November 2, 1959.

It is difficult to deal with a committee by letter in matters of such an intimate and personal nature. I had requested permission to testify to the Appeal Board in person, but unfortunately prescribed procedure does not allow for such appearances. I have enclosed for your perusal a copy of the letter explaining my beliefs to the Board.

I would like to point out that the Special Hearing Officer of the Department of Justice who interviewed me expressed a strong opinion that my appeal be granted. I have also enclosed for your information a copy of the Justice Department's recommendation in which Special Hearing Officer Lockwood's remarks are set forth.

It is my firm opinion that the Appeal Board's decision is unjust. In the light of the nature of my convictions, as explained in the enclosed letter, and in the light of the recommendation of the Special Hearing Officer, I would like you to review my case and to order my induction postponed pending your decision. Also I request that you carry an appeal to the President on my behalf.

I will appreciate any efforts you deem proper to expend in this matter. Thank you very much for your attention.

Sincerely,

[illegible] Spagen

[fol. 164] GOVERNMENT'S EXHIBIT 37-D

328 West 89th Street
New York 24, New York

June 3, 1960

Selective Service System
JUN 9 1960
Flushing, N.Y.

...e. Lewis B. Hershey
...ational Director of Selective Service
...[illegible] Indiana Avenue, N. W.
...ashington 25, D. C.

Dear Sir:

On May 24, 1960, the Appeal Board here in New York City gave me a 1A classification, denying a request I had made to be considered a conscientious objector.

It is my belief that the Appeal Board's action would result in a substantial injustice. It would seem that the Board incorrectly evaluated my contentions concerning the religious nature of my convictions as I described them in my letter of November 2, 1959.

It is difficult to deal with a committee by letter in matters of such an intimate and personal nature. I had requested permission to testify to the Appeal Board in person, but unfortunately prescribed procedure does not allow for such appearances. I have enclosed for your perusal a copy of the letter explaining my beliefs to the Board.

I would like to point out that the Special Hearing Officer of the Department of Justice who interviewed me expressed a strong opinion that my appeal be granted. I have also enclosed for your information a copy of the Justice Department's recommendation in which Special Hearing Officer Lockwood's remarks are set forth.

It is my firm opinion that the Appeal Board's decision is unjust. In the light of the nature of my convictions, as explained in the enclosed letter, and in the light of the recommendations of the Special Hearing Officer, I would like you to review my case and to order my induction postponed pending your decision. Also I request that you carry an appeal to the President on my behalf.

. . Lewis B. Hershey
ational Director of Selective Service
ff Indiana Avenue, N. W.
ashington 25, D. C.

Selective Service
1960
Flushing, N. Y.

ear Sir:

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It is my belief that the Appeal Board's action would result in a substantial injustice. It would seem that the Board incorrectly evaluated my contentions concerning the religious nature of my convictions as I described them in my letter of November 2, 1959.

It is difficult to deal with a committee by letter in matters of such an intimate and personal nature. I had requested permission to testify to the Appeal Board in person, but unfortunately prescribed procedure does not allow for such appearances. I have enclosed for your perusal a copy of the letter explaining my beliefs to the Board.

I would like to point out that the Special Hearing Officer of the Department of Justice who interviewed me expressed a strong opinion that my appeal be granted. I have also enclosed for your information a copy of the Justice Department's recommendation in which Special Hearing Officer Lockwood's remarks are set forth.

It is my firm opinion that the Appeal Board's decision is unjust. In the light of the nature of my convictions, as explained in the enclosed letter, and in the light of the recommendations of the Special Hearing Officer, I would like you to review my case and to order my induction postponed pending your decision. Also I request that you carry an appeal to the President on my behalf.

I will appreciate any efforts you deem proper to expend in this matter. Thank you very much for your attention.

Sincerely,

DAS/bjs

Daniel A. Seeger

[fol. 165]

GOVERNMENT'S EXHIBIT 43

NATIONAL HEADQUARTERS
SELECTIVE SERVICE SYSTEM
451 INDIANA AVENUE NORTHWEST
WASHINGTON 25, D. C.

OFFICE OF THE DIRECTOR

ADDRESS REPLY TO
THE DIRECTOR OF SELECTIVE SERVICE

[illegible]

To: [illegible]

Enclosure: Induction Order
Serial No. 50-[illegible]

I hereby appoint to the position of [illegible] the above-named registrant as a member of the Local Board in Class I-A.

Lewis B. Hershey
Director of Selective Service

13 July 1960
Date

[fol. 166]

GOVERNMENT'S EXHIBIT 44

OFFICE OF THE DIRECTOR

NATIONAL HEADQUARTERS
SELECTIVE SERVICE SYSTEM
451 INDIANA AVENUE NORTHWEST
WASHINGTON 25, D. C.

ADDRESS REPLY TO
THE DIRECTOR OF SELECTIVE SERVICE

JUL 13 1960

Director of Selective Service
for New York City
11th Floor, 205 East 42d Street
New York 17, New York

Selective Service System
LOCAL BOARD NO. 66
JUL 20 1960
39-01 Main Street
Flushing, N. Y.

Subject: Daniel Andrew Seeger
SS No. 50-66-35-620

Dear Colonel Akst:

There has been placed in the cover sheet of the above-named registrant Notice of Appeal to The President by the Director of Selective Service.

Will you kindly advise the local board of the above-mentioned action.

The registrant's current address as shown in the record is 328 West 89th Street, New York 24, New York.

Sincerely yours,

Lewis B. Hershey

DIRECTOR

[fol. 167] GOVERNMENT'S EXHIBIT 48

August 25, 1960

PAB #9410
Seeger, Daniel Andrew
SS No. 30-66-35-620
Local Board No. 66
Flushing, New York

New York City Director of Selective Service
11th Floor, 205 East 42d Street
New York 17, New York

Dear Colonel Akst:

The appeal taken by the Director of Selective Service in the case of the above-named registrant has this date been adjudicated by this Board and the registrant has been classified in Class 1-A by a vote of 3 to 0. The cover sheet and other data have been returned to you, through channels.

Very truly yours,

NATIONAL SELECTIVE SERVICE APPEAL BOARD

By

Edwin J. Dentz
Executive

EJD:ffb

[fol. 168] GOVERNMENT'S EXHIBIT 51

SELECTIVE SERVICE SYSTEM

Approval Not Required

ORDER TO REPORT FOR INDUCTION

[redacted]
(Local Board Stamp)

October 3, 1960
(Date of mailing)

The President of the United States,

To [redacted] [redacted] [redacted] 50 66 35 620
(Last name) (Middle name or initials) (First name) (Selective Service Number)

Mailing address 32[redacted] West 20 St.
(Number and street or R. F. D. route)

New York 24 NY
(City, town, or village) (Zone) (County) (State)

GREETING:

You are hereby ordered for induction into the Armed Forces of the United States, and to report

at [redacted] (Rear Entrance)
(Place of reporting)

at 7:30 a. m., on the 20th day of October, 19[redacted]
(Hour of reporting) (Day) (Month)

for ~~forwarding to~~ armed forces induction station.

[redacted]
(Member or clerk of Local Board)

IMPORTANT NOTICE

If you have had previous military service bring your service records with you. If you wear glasses, bring them with you. Bring proof of your relationship to the person you claim as a dependent if you intend to apply for dependency benefits.

Bring your Social Security Account Number Card with you. If you do not have one, apply at nearest Social Security Administration Office.

This Local Board will furnish transportation to the induction station where you will be examined, and, if accepted for service, you will then be inducted into a branch of the Armed Forces. If you are not accepted for service

The President of the United States,

To [redacted] (First name) [redacted] (Middle name or initial) [redacted] (Last name) 50 66 35 620 (Selective Service Number)

Mailing address 329 East 79 St. (Number and street or R. F. D. route)

New York (City, town, or village) 24 (Zone) [redacted] (County) [redacted] (State)

GREETING:

You are hereby ordered for induction into the Armed Forces of the United States, and to report

at [redacted] (Place of reporting) [redacted], N.Y. (Rear Entrance)

at 7:30 (Hour of reporting) A. m., on the 29th (Day) of October (Month), 19[redacted]

for ~~forwarding to~~ armed forces induction ~~station~~.

[redacted] (Member or clerk of Local Board)

IMPORTANT NOTICE

If you have had previous military service, bring your service records with you. If you wear glasses, bring them with you. Bring proof of your relationship to the person you claim as a dependent if you intend to apply for dependency benefits.

Bring your Social Security Account Number Card with you. If you do not have one, apply at nearest Social Security Administration Office.

This Local Board will furnish transportation to the induction station where you will be examined, and, if accepted for service, you will then be inducted into a branch of the Armed Forces. If you are not accepted, return transportation will be provided.

Persons reporting to the induction station in some instances are found to have developed disqualifying defects since being examined and may be rejected for these or other reasons. It is well to keep this in mind in arranging your affairs, to prevent any undue hardship if you are rejected at the induction station. If you are employed, you should advise your employer of this notice and of the possibility that you may not be accepted at the induction station. Your employer can then be prepared to replace you if you are accepted, or to continue your employment if you are rejected.

Willful failure to report promptly at the place specified above and at the hour and on the day named in this Order is a violation of the Universal Military Training and Service Act, as amended, and subjects the violator to fine and imprisonment. You must keep this form and bring it with you when you report for induction. Bring with you sufficient clothing for 3 days.

If you are so far away from your own Local Board that reporting in compliance with this Order will be a serious hardship and you desire to report to a Local Board in the area in which you are now located, go immediately to that Local Board and make written request for transfer of your delivery for induction, taking this Order with you.

SSS Form No. 252 (Revised 5-23-58) (Supplies of previous printings shall be used until exhausted) [redacted]

[fol. 169] GOVERNMENT'S EXHIBIT 52

39 Whitehall Street, New York 4, N. Y.

26 October 1960

United States Attorney
Southern District of New York
U.S. Court House, Foley Square
New York, New York

Dear Sir:

Daniel Andrew Seeger, [illegible] 35 62[illegible], 328 East 79th Street, New York 21, New York, selective service registrant from Local Board 39-66, 39-01 Main Street, Flushing, New York, appeared at this station on 20 October 1960 to be inducted into the Army of the United States, in accordance with the Universal Military Training and Service Act 1951, as amended.

Mr. Seeger, registrant for induction, refused to take one step forward when his name was called by the Induction Officer. He was then informed that his refusal constituted a felony under the provisions of the Universal Military Training and Service Act 1951, as amended, and that conviction of such an offense under the provisions of civil proceedings would subject him to be punished by imprisonment for not more than five (5) years or a fine of not more than $10,000.00 or both. He was then informed again of the imminence of his induction, under the specific language and his name was called by me. Mr. Seeger, persisted in his refusal to be inducted and did not take a step forward. His refusal is based on his membership in an organization called American Friends Service Committee, which he claims opposes induction into the Armed Forces.

Mr. Seeger did not desire to write and sign his own statement.

Very truly yours,

cc: Director, Selective Service
LB 39-66
Mr. Charles Daniel
File

1st Lt, Inf
Induction Officer

Southern District of New York
U.S. Court House, Foley Square
New York, New York

Dear Sir:

Daniel Andrew Seeger, [illegible] Mr. 5[illegible]66 35 6[illegible], 328 [illegible]t [illegible]t, New York 24, New York, Selective Service [illegible]nstrument from Local [illegible] 50-66, 39-01 Main Street, Flushing, New York, appeared [illegible]t [illegible]s [illegible]t [illegible]n on 20 October 1960 to be inducted into the Army of the United States, in accordance with the Universal Military Training and Service Act 1951, as amended.

Mr. Seeger, registrant for induction, refused to take one step forward when his name was called by the Induction Officer. He was then informed that his refusal constituted a felony under the provisions of the Universal Military Training and Service Act 1951, as amended, and that conviction of such an offense under the provisions of civil proceedings would subject him to be punished by imprisonment for not more than five (5) years or a fine of not more than $10,000.00 or both. He was then informed again of the imminence of his induction, under the specific language and his name was called by me. Mr. Seeger, persisted in his refusal to be inducted and did not take a step forward. His refusal is based on his membership in an organization called Moriem Friends Service Committee, which he claims opposes induction into the Armed Forces.

Mr. Seeger did not desire to write and sign his own deposition.

Very truly yours,

[illegible]

cc: [illegible]ir of [illegible] (City
LB 50-66
Mr. Charles Manel
File

[illegible] [illegible] 1
1st Lt, Inf
Induction Officer

[fol. 170]

GOVERNMENT'S EXHIBIT 56

NEW YORK CITY HEADQUARTERS
SELECTIVE SERVICE SYSTEM
205 EAST FORTY SECOND STREET
NEW YORK 17, N. Y.

REFER TO FILE
November 30, 1960 17:ec

Mr. Samuel Rakosi, Chairman
Local Board No. 66
39-01 Main Street
Flushing 54, New York

Subject: Daniel A. Seeger
SS No. 50-66-35-620

Dear Mr. Rakosi:

The file of the above named registrant is returned herewith.

You will note that the Director of Selective Service has determined that this registrant should be reported to the United States Attorney for prosecution as a delinquent. A copy of the Director's letter to this Headquarters dated November 25, 1960, has been placed in the cover sheet.

Kindly prepare and transmit necessary copies of SSS Form 301 to the United States Attorney, Southern District of New York. It is also requested that under Item 5 of the SSS Form 301 you indicate that the Director of Selective Service has determined that this registrant should be reported to the United States Attorney for prosecution as a delinquent in accordance with the provisions of Section 1642.41 of the Selective Service regulations.

For the New York City Director

John J. Horan
Lt. Commander, USNR
Chief, Operations & Legal Division

Encls.

Mr. Samuel Rakosi, Chairman
Local Board No. 66
39-01 Main Street
Flushing 54, New York

Subject: Daniel A. Seeger
SS No. 50-66-35-620

Dear Mr. Rakosi:

The file of the above named registrant is returned herewith.

You will note that the Director of Selective Service has determined that this registrant should be reported to the United States Attorney for prosecution as a delinquent. A copy of the Director's letter to this Headquarters dated November 25, 1960, has been placed in the cover sheet.

Kindly prepare and transmit necessary copies of SSS Form 301 to the United States Attorney, Southern District of New York. It is also requested that under Item 5 of the SSS Form 301 you indicate that the Director of Selective Service has determined that this registrant should be reported to the United States Attorney for prosecution as a delinquent in accordance with the provisions of Section 1642.41 of the Selective Service regulations.

For the New York City Director

John J. Horan
Lt. Commander, USNR
Chief, Operations & Legal Division

Encls.

Selective Service System
LOCAL BOARD NO. 66

DEC 1 1960

39-01 Main Street
Flushing, N Y

120

[fol. 171] GOVERNMENT'S EXHIBIT 61

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

Stipulation 62 Cr. 1003

UNITED STATES OF AMERICA,

v.

DANIEL ANDREW SEEGER, Defendant

It is hereby stipulated and agreed, by and between the defendant Daniel Andrew Seeger, his counsel Kenneth W. Greenawalt, Esq., and the United States of America by Robert M. Morgenthau, United States Attorney for the Southern District of New York, and Ezra H. Friedman of counsel as follows:

1. That the defendant is the person named in the indictment.

2. That the Selective Service System Coversheet (S.S.S. Form 101 bearing defendant's name and Selective Service No. 50-66-35-620, which will be offered in evidence at the trial thereof, is the Selective Service file of the defendant and all papers in this defendant's file are contained therein except as stated to the Court on the record.

3. That the defendant Daniel Andrew Seeger was ordered by his Local Board to report for induction into the Armed Forces of the United States on October 20, 1960 at the Armed Forces Examination and Induction Station, at 39 Whitehall Street, New York, N.Y., in the Southern [fol. 172]. District of New York.

4. That the defendant Daniel Andrew Seeger reported at the time and place specified in the aforesaid order.

5. That he refused to submit to induction at the time and place aforesaid claiming that the order was invalid as he had wrongfully been denied exemption as a conscientious objector.

Dated: New York, N. Y., March 27, 1963.

Daniel A. Seeger, Defendant. Kenneth W. Greenawalt, Esq., Attorney for Defendant. Robert M.

Morgenthau, United States Attorney for the Southern District of New York, Attorney for United States of America, By: Ezra H. Friedman, Assistant United States Attorney.

[fol. 173] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1963

UNITED STATES, Petitioner,

vs.

DANIEL ANDREW SEEGER

ORDER EXTENDING TIME TO FILE PETITION FOR WRIT OF CERTIORARI—February 19, 1964

Upon Consideration of the application of counsel for petitioner,

It is ordered that the time for filing petition for writ of certiorari in the above-entitled cause be, and the same is hereby, extended to and including March 20, 1964.

John M. Harlan, Associate Justice of the Supreme Court of the United States.

Dated this 19th day of February 1964.

[fol. 174] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1963

UNITED STATES, Petitioner,

vs.

DANIEL ANDREW SEEGER

ORDER ALLOWING CERTIORARI—May 4, 1964

The petition herein for a writ of certiorari to the United States Court of Appeals for the Second Circuit is granted. The case is placed on the summary calendar and set for oral argument immediately following No. 787.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

☆ U. S. GOVERNMENT PRINTING OFFICE 1964 738371 80